

NOMINATION

HEARING
BEFORE THE
COMMITTEE ON
LABOR AND HUMAN RESOURCES
UNITED STATES SENATE
ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

DOROTHY LIVINGSTON STRUNK, OF MARYLAND, TO BE ASSISTANT SECRETARY OF LABOR (FOR MINE SAFETY AND HEALTH), U.S. DEPARTMENT OF LABOR

JULY 29, 1987



Printed for the use of the Committee on Labor and Human Resources

U.S. GOVERNMENT PRINTING OFFICE

78-740

WASHINGTON : 1987

COMMITTEE ON LABOR AND HUMAN RESOURCES

EDWARD M. KENNEDY, Massachusetts, *Chairman*

CLAIBORNE PELL, Rhode Island

HOWARD M. METZENBAUM, Ohio

SPARK M. MATSUNAGA, Hawaii

CHRISTOPHER J. DODD, Connecticut

PAUL SIMON, Illinois

TOM HARKIN, Iowa

BROCK ADAMS, Washington

BARBARA A. MIKULSKI, Maryland

ORRIN G. HATCH, Utah

ROBERT T. STAFFORD, Vermont

DAN QUAYLE, Indiana

STROM THURMOND, South Carolina

LOWELL P. WEICKER, Jr., Connecticut

THAD COCHRAN, Mississippi

GORDON J. HUMPHREY, New Hampshire

THOMAS M. ROLLINS, *Staff Director and Chief Counsel*

HAYDEN G. BRYAN, *Minority Staff Director*

NOMINATION

WEDNESDAY, JULY 29, 1987

U.S. SENATE,
COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, DC.

The committee met, pursuant to notice, at 9:32 a.m., in room SD-430, Dirksen Senate Office Building, Senator Edward M. Kennedy (chairman) presiding.

Present: Senators Kennedy and Hatch.

Also present: Congressman James M. Jeffords.

OPENING STATEMENT OF SENATOR KENNEDY

The CHAIRMAN. We will come to order.

We welcome the opportunity to have a hearing this morning on Dorothy Livingston Strunk to be Assistant Secretary of Labor for Mine Safety and Health.

Ms. Strunk, you are very fortunate to have Secretary Bill Brock here to introduce you to this Committee. We always welcome the opportunity to hear from Secretary Brock, and I know he has made a very special effort to be with us here this morning.

Mr. Secretary, we welcome you. We know that you have an important responsibility or, rather, a tragic one, in terms of attending the funeral of Secretary Baldrige, the loss of whom we all feel. And we know the special effort you made to get here this morning and look forward to hearing from you. First, however, we will receive for the record statements by Senators Metzenbaum and Thurmond.

[The prepared statements of Senators Metzenbaum and Thurmond follows:]

U.S. Senator Howard M.

METZENBAUM

of Ohio

Committees:
Judiciary
Labor and Human Resources
Energy and Natural Resources
Select Committee on Intelligence

Chairmanships:
Subcommittee on Antitrust
Subcommittee on Labor
Subcommittee on Energy
Regulation and Conservation

OPENING STATEMENT OF SENATOR HOWARD M. METZENBAUM
at the
COMMITTEE ON LABOR AND HUMAN RESOURCES HEARING
on the
NOMINATION OF DOROTHY STRUNK for ASSISTANT SECRETARY OF LABOR

July 29, 1987

We are meeting today to consider a nominee to serve as Assistant Secretary for Mine Safety and Health. MSHA was established to protect the health and safety of the mining industry's most precious resource -- American miners. Measured against that goal, the recent history of the agency has been a national disgrace.

Over the past 6 years, MSHA has refused to develop or enforce meaningful health standards. It has failed to conduct annual inspections mandated by Congress. It has filibustered Congressional efforts to replenish the depleted ranks of mine inspectors. It has reduced the penalty structure for injury reporting to a joke, thereby aiding and abetting the massive underreporting of injuries, especially in small mines.

A Federal study released this week showed that mining is by far the most dangerous occupation in the United States. The annual fatality rate for miners is more than 3 times the overall national average and is 30% higher than the second most dangerous occupation, construction. Mining has always been dangerous. But there is no excuse for federal neglect or malfeasance making it more so. What MSHA needs now is strong, aggressive leadership. The next Assistant Secretary must be someone with experience in attacking large administrative problems; someone with a track record as a successful manager; someone with a demonstrated commitment to protect miners first. I look forward to today's hearing as an opportunity to point us in the right direction.

STATEMENT BY SENATOR STROM THURMOND (R.-S.C.) REFERENCE FULL SENATE LABOR COMMITTEE CONFIRMATION HEARING ON DOROTHY STRUNK TO BE ASSISTANT SECRETARY OF LABOR FOR THE MINE SAFETY AND HEALTH ADMINISTRATION, JULY 29, 1987, 10:00 AM, SD-430.

MR. CHAIRMAN:

Today we will be considering the qualifications of Dorothy Strunk for the position of Assistant Secretary of Labor for the Mine Safety and Health Administration.

The Assistant Secretary of Labor is responsible for overseeing mine-safety enforcement of the nation and for managing approximately 3,000 agency employees. The decisions made by the Assistant Secretary can be a matter of life-or-death importance for tens of thousands of coal miners.

I believe Ms. Strunk is capable of handling this important position.

Mr. Chairman, I have heard from many who know Ms. Strunk professionally and personally and share in this view.

For example, John S. Knebel, President of the American Mining Congress has stated:

We have worked with Ms. Strunk for more than 15 years in her capacity as minority staff on the House Education and Labor Committee. Although we have not always agreed with her views, we can report to you that she is totally dedicated to protecting the health and safety of our nation's miners and to carrying out the provisions of the 1977 Federal Mine Safety and Health Act.

Moreover, this view is shared by those representing both sides of the aisle. For example, Paul F. Dwyer, former Democratic counsel

to the House Subcommittee on Health and Safety has written to me stating:

[Ms. Strunk] has at all times demonstrated a dedication to the safety and health of American miners. As the daughter of a disabled coal miner, she knows on a very personal level the danger in coal mining and the need for an aggressive federal mine safety and health law.

Mr. Chairman, I ask unanimous consent that these letters and several others I have received supporting Ms. Strunk be printed in the record in full.

Mr. Chairman, I look forward to hearing the testimony presented today and I am confident that we will see that Ms. Strunk would make a capable and dedicated Assistant Secretary of Labor.

STATEMENT OF HON. WILLIAM E. BROCK III, SECRETARY OF
LABOR

Secretary BROCK. Thank you, Mr. Chairman. I know you made a special effort on my behalf, and I really do appreciate it because I do have to be at the memorial service for a very dear friend, Mac Baldrige, at ten o'clock. So I am going to "eat and run" rather quickly this morning.

The CHAIRMAN. That is fine.

Secretary BROCK. But I do want to start this session off by saying that I have on behalf of the President sent 13 nominations to this Committee. This is the only time—this is the first time, obviously—that I have seen fit to intervene personally with my own testimony and my physical presence.

I do so in part because I think this nomination is an important one. Mr. Chairman, you have expressed a lot of concern about this particular agency, its effectiveness, some of its apparent shortcomings, and that is a concern that we share, and I want to be very sure that I evidence that by my presence.

I also want to be blunt, Mr. Chairman. It is no secret that the UMW has been working to defeat this nomination. And while I have an enormous respect for that body and for its president, I think he has been given in this case wrong advice.

I want to make it clear to the Committee that I did seek the advice of that organization as well as others in the industry. It was the first organization that I sought a recommendation from when the position became vacant in January of this year. We made a number of requests, and they finally submitted one proposed name, a former president of a UMW Local and a field coordinator who served several layers down in the organization. They were asked if there were any individuals in the health and safety field who would be unacceptable, and they never even responded. I think that evidences at least some need for them to grow up. That may be a harsh statement, but when there is no answer, no thoughtful response to our offer to consider candidates for the top mine safety and health position, I am forced to be blunt.

I am not going to spend any more time on that subject because I do want to stress the affirmative reason for my presence. Anybody who knows me knows that I have a deep respect and love and affection for this Congress and a belief in the Constitutional process.

Nowhere is the role of Congress more important than in the enactment and oversight of this Nation's mine health and safety or overall health and safety laws.

My selection of Dottie Strunk—an individual who has spent 20 years working in the House of Representatives, half of that time working directly on health and safety legislation—was an act of good faith on my part to respond to the interests of the Congress and in particular to respond to the interests and concerns of this Committee.

In selecting Dottie Strunk, I made a conscious decision not to pick an individual from the mining industry. I made a conscious decision to select an individual who knows the Mine Safety and Health Act and its regulations, who is familiar with the Act's enforcement under three different Assistant Secretaries, and who has

a personal association with the risks and hardships inherent in mining, who grew up in a mining town and who, most importantly, understands and respects the Congress' authority and intent in health and safety laws.

She has been in more mines than any other woman in this country other than a miner. She has inspected underground mines including limestone, uranium, gold, four coal mines, marble, stone quarries, as well as surface mine operations. She drafted amendments to the Mine Safety and Health Act and the Black Lung Trust Fund law. She has worked with Democrats, for Republicans, in the House Subcommittee on Health and Safety, of the Committee on Education and Labor and you have the endorsement of every Republican on that Committee in your file.

She is the principal health and safety professional for House Republicans, and has been for eight years. No woman in this country and certainly very few, if any, men can match her knowledge of mine safety and health issues and in particular of mine health and safety law and regulation.

You have received numerous letters of support. I cite only two that I wanted to highlight, and I will not quote them, but they are before the Committee.

One is from the former Democratic Counsel to the House Subcommittee on Health and Safety, Mr. Paul Dwyer; and the other one is from the Republican Members of the House Education and Labor Committee. Their endorsements are strong, precise, clear and effective, in my judgment.

Two specific comments. One, the question has been raised about managerial experience. Mr. Chairman, I served in this body for six very fun and exciting and productive, I think, years. I do not think I know of a Senator who is at least in his second term or more who has not submitted someone from his staff to be assistant secretary of some agency.

The CHAIRMAN. I think your Party has more luck at that than ours.

Secretary BROCK. Well, only in the present Administration. [Laughter.]

But you know, what Congressional staffer has managed more than a handful of people, when you talk about managerial experience? But all of us have actively supported Hill staffers for assistant secretary or equivalent-level positions, and we cannot exclude all qualified, dedicated Congressional staff from such positions because they have not supervised 2,000 workers. That is ridiculous.

So let us not lose sight of what the Assistant Secretary does. These are individuals who advise me, as your staff advises you, who carry out my policies and my directives, just as your staff does for you.

I have selected my Assistant Secretary nominee on the basis of; First, knowledge of the issues; second, a belief in strong enforcement; third, an ability to inspire the people they lead; and fourth, creativity and resourcefulness, and lastly and most importantly, a vision about what an agency should become. I think that is a classic description of Dottie Strunk.

The Assistant Secretary does not tour the mines any more than the head of OSHA tours the factories. We have managers to do that.

In terms of her educational background, I can simply comment that it is true that she did not finish college; she did not attend college. Neither did my grandfather, but he was a United States Senator.

There are Members of the Congress today who never graduated from college, and I do not think they are any less worthy of representing the views of their constituency.

I would argue that 20 years of experience working with Congress is equivalent to a lifetime of college degrees from any institution of learning, and I imagine that opinion would be shared by the Dean of the Kennedy School of Government at Harvard.

I selected Dottie Strunk because I believe her personal views are most akin to my own instincts about health and safety issues. I am not only comfortable with her; I wholeheartedly agree with her balanced, pragmatic approach, her tough enforcement stance, and her political judgment.

We know, you and I, Mr. Chairman, that this issue is important and is going to be of increasing importance. The men and women who work in the mines of the United States deserve our best efforts to provide the maximum degree of protection and support of their interests.

I am absolutely convinced that this lady cares as much about that and is as qualified to deal with those problems as anybody I could find. I submit her to you with a great deal of confidence, as a person that I believe will represent your views and mine in an effective and productive way.

I appreciate again your willingness to give me an early hearing so that I could be with you.

The CHAIRMAN. Thank you very much, Mr. Secretary.

I know you have to go, but we certainly always consider your comments before this Committee, and that is a very strong endorsement, and I know it will be considered by the Members of this Committee, and we thank you very much. We know the special effort you made to be here.

Thank you very much.

Secretary BROCK. Thank you.

The CHAIRMAN. Congressman Jeffords, we welcome you to the Committee as well. We always look forward to our various conferences with you and with the House and have enjoyed the opportunity to work with you on a number of matters of common interest to our committees. You are always welcome to our Committee here, and we look forward to whatever comments you would like to make about our nominee this morning.

STATEMENT OF HON. JAMES M. JEFFORDS, MEMBER OF CONGRESS, STATE OF VERMONT, AND RANKING MEMBER, HOUSE EDUCATION AND LABOR COMMITTEE

Mr. JEFFORDS. Thank you, Mr. Chairman.

It is a pleasure to be with you here today, and it is even a greater pleasure for me to second the nomination of Dottie Strunk.

Dottie has worked with me for many years and I want to say that, coming from a State that has a lot of quarries and a lot of people who are deeply interested in MSHA, that I have absolutely no reservations about her nomination and her serving as one of the finest Assistant Secretaries that we will have had with MSHA.

Dottie Strunk has worked with me, and she is a highly-qualified, intelligent, and highly-motivated professional. I just want to again echo the remarks of Secretary Brock when he says that he has no reservation and wants very much to have her serve.

I know there have been some questions raised about her lacking mining experience and also administrative experience. These questions may be valid issues, but they certainly are not valid criticism of Dottie Strunk.

These questions have been raised by the United Mine Workers. Some people have speculated that they have been perhaps motivated by sexism, but I doubt it, because I know the Mine Workers are probably one of the most progressive of the unions in that regard.

I think it is more likely and perhaps understandable if the UMW is nervous about entrusting MSHA to someone whose job by definition has required anonymity. I hope that today's testimony will lay that concern to rest. Just as it was a myth that women are "bad luck" mines, so is it a myth that women cannot run MSHA.

I would note in passing that these standards seem rather new. I do not think any of the previous Assistant Secretaries have been held to these standards. But although these criteria have not been judged essential in the past, they are nonetheless legitimate.

I have no doubt that Dottie will be able to adapt quickly to the administrative requirements of the job. She has demonstrated quite a bit of administrative skill already in coordinating the needs and interests of Members, in assisting staff, and in working with the Administration and other parties.

Frankly, I would not want an Assistant Secretary to spend a lot of time on the administrative work. That is not what you and I do, and that is not what the head of an agency should do with his or her time. If we were to apply this logic to ourselves, certainly we would wonder whether we ought ever to be in the Cabinet or to serve as an executive, and certainly I think, at least in your body, a number of people desire to progress on to the Executive Branch in some form or other.

The CHAIRMAN. I am familiar with that issue. [Laughter.]

Mr. JEFFORDS. Yes. The issue of her lack of mining experience is even less compelling. It is one thing to have a philosophical commitment to health and safety. Ms. Strunk has that. She has committed the last ten years of her life to health and safety. Beyond that, I think she brings to the job a personal commitment that is even stronger.

I know I have a special concern for the judiciary that comes from being the son of a judge. And I think Dottie, being raised in a mining family, has made what otherwise might be an abstract issue very real to her.

Members of the House and Senate want to be omniscient. The fact of the matter is that we are not. We are often spread thin. We have a lot of demands on our time, and we have countless distractions. The interest and knowledge shown in health and safety

issues by Republican Members of the Education and Labor Committee has come from our own convictions, but it has also come from Dottie's prodding.

Thanks in large part to her concern, we have taken an active interest in such issues as records and reporting, mandatory inspections, and problems uncovered in the Wilberg disaster—long before the items hit the newspapers. Dave Zegeer probably viewed her as the bane of his existence. He expected criticism from Democrats on this Committee; he may not have expected it from Republicans on our Committee.

Perhaps more telling than the questions raised by the UMW are the questions not raised. To my knowledge, no one has questioned Dottie Strunk's commitment to mine safety; no one has questioned her knowledge of the law, and no one has questioned her integrity.

I think certainly in my class of 1974—and a number of those Members that came into the House at that time are on your committee—know that the quality of character and integrity are central to anyone's appointment to this position.

No amount of mining or administrative experience can compensate for lack of integrity and commitment. But with it, I think the person can accomplish a great deal. And I am confident, Mr. Chairman, that Dottie Strunk can do just that. I think she is a tremendous woman and a tremendous person in all regards and will do an excellent job as Assistant Secretary.

I thank you for allowing me to be here to share that with you.
[The prepared statement of Mr. Jeffords follows:]

Statement of the Hon. James M. Jeffords
on the Confirmation of Dorothy L. Strunk
as Assistant Secretary of Labor
for Mine Safety and Health
July 29, 1987

Mr. Chairman and Members of the Committee: I appreciate the opportunity to appear before you and introduce President Reagan's nominee for Assistant Secretary of Labor for Mine Safety and Health, Ms. Dorothy Strunk.

I'm also glad for the opportunity to see some familiar faces. Three or four of the Members of this Committee entered the House with me in 1974. Unfortunately, I think they are all on your side of the dais, Mr. Chairman.

I generally do not become involved in the confirmation process. It is the Senate's task to provide advice and consent on nominations -- a fact which may leave many House Members breathing a sigh of relief from time to time. And I believe an Administration, Democratic or Republican, should have some latitude in filling its ranks.

This is not to say that I believe the Senate should serve as a rubber stamp; indeed, I have differed with the Administration on some of its choices. But I have no such reservations about the nomination before you today. If I did, I wouldn't be here.

Dottie Strunk has served for many years as an outstanding staff member on the Education and Labor Committee. She is an intelligent and highly motivated professional. Having worked with her for several years, I know she would make an equally good Assistant Secretary of Labor for Mine Safety and Health.

I gather there are two questions raised about her nomination; first, that she lacks mining experience, and second, that she lacks administrative experience. These questions may be valid issues, but they are not valid criticisms.

These questions have been raised by the United Mine Workers. Some people have speculated that they are motivated by sexism. I doubt it, for while there are vestiges of chauvinism in the mining industry, the UMW has proven to be one of the more progressive unions; in the forefront, for example, on such issues as parental leave. I think it is more likely, and perhaps understandable, that the UMW is nervous about entrusting MSHA to someone whose job by definition has required anonymity. I hope that today's testimony will lay that concern to rest. Just as it was a myth that women are bad luck in mines, so too is it a myth that this woman cannot run MSHA.

I would note in passing that these standards seem rather new. I don't think any of the previous Assistant Secretaries have been held to them. But although these criteria have not been judged essential in the past, they are nonetheless legitimate.

I have no doubt that Dottie will be able to adapt quickly to the administrative requirements of the job. She has demonstrated quite a bit of administrative skill already -- in coordinating the needs and interests of Members, in assisting staff, and in working with the Administration and other parties.

Frankly, I wouldn't want an Assistant Secretary to spend a lot of time on administrative work. That's not what you and I do, and that's not what the head of an agency should do with his or her time.

The issue of her lack of mining experience is even less compelling. It's one thing to have a philosophical commitment to health and safety. Ms. Strunk has that. She has committed the last 10 years of her life to health and safety. Beyond that, I think she brings to the job a personal commitment that is even stronger. I know I have a special concern for the judiciary that comes from being the son of a judge. And I think Dottie's being raised in a mining family has made what otherwise might be abstract issues very real indeed.

Members of the House and Senate want to be seen as omniscient. The fact of the matter is that we are not. We are often spread thin, we have a lot of demands on our time, and we have countless distractions. The interest and knowledge shown in health and safety issues by Republican Members on the Education and Labor Committee has come from our own convictions, but it also has come from Dottie's prodding. Thanks in large part to her concern, we have taken an active interest in such issues as records and reporting, mandatory inspections, and the problems uncovered in the Wilberg disaster -- long before these items hit the newspapers.

Perhaps more telling than the questions raised by the UMW are the questions not raised. To my knowledge, no one has questioned Dottie Strunk's commitment to mine safety. No one has questioned her knowledge of the law. And no one has questioned her integrity.

Mr. Chairman, I think my class -- the class of '74 -- especially took to heart the need for integrity in public office. Probably every one of us -- Paul Simon, Tom Harkin, Chris Dodd, myself -- campaigned on it that year. And it's a quality that is central to Ms. Strunk's character and qualifications.

No amount of mining or administrative experience can compensate for a lack of integrity or commitment. But with it, I think a person can accomplish a great deal. And I am confident, Mr. Chairman, that Dottie Strunk can do just that.

The CHAIRMAN. Thank you very much, Mr. Jeffords.

We appreciate your taking the time to come over here and to make a presentation. We know that you have a special understanding of the nominee, having worked with her over a period of time, and we certainly value very highly your comments and thank you very much.

We appreciate your coming. I know you would like to stay, but I know you have other responsibilities.

Mr. JEFFORDS. Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Well, you are off to quite a start, Ms. Strunk.

Ms. STRUNK. Does that mean I am excused?

The CHAIRMAN. Not just yet. [Laughter.]

The CHAIRMAN. The hearing this morning comes at a vital time in the life of the Mine Safety and Health Administration.

Hearings held under Chairman Hatch and hearings I held in March found that MSHA is an agency that has lost the will to do its job. The agency has failed to follow the recommendations of its own experts and instead has caved in to pressure from industry to reduce the protection of miners.

The agency has harassed and transferred some of its best law enforcement officials. The agency has eliminated procedures that would permit the agency or the public from finding out when mine deaths are the result of the agency's own failure to do its job.

These are not matters of trivial concern. Men and women have lost their lives because MSHA has lost its will. Unless new life can be brought to this agency, hundreds of miners may be poisoned, crushed or electrocuted while waiting for the law to enter the gates of their mines.

So it is with special concern that the Committee will examine the qualifications and the record of the nominee before the Committee today. On her expertise and determination may rest the very limbs, lungs and lives of men and women all over this country who work the coal seams together.

Ms. Strunk, I know you have a statement, and we look forward to hearing it now if you so care to give it.

**STATEMENT OF DOROTHY LIVINGSTON STRUNK, OF MARYLAND,
NOMINATED TO BE ASSISTANT SECRETARY OF LABOR FOR
MINE SAFETY AND HEALTH**

Ms. STRUNK. Thank you, Mr. Chairman.

It is an honor for me to appear before you today as the President's nominee for Assistant Secretary of Labor for Mine Safety and Health.

After my nomination was announced, many of my friends and colleagues asked me, "Why are you doing this? Why are you taking this on?"

My answer to that is simple: "I believe I can make a difference."

I believe that the two most important qualifications for the position of Assistant Secretary are, first, a demonstrable commitment to miner safety and health, and second, a knowledge of and respect for the law that MSHA is charged with administering.

I have been concerned about miners' safety and health all of my life. I was born and raised in a coal mining town. I am the daughter of a coal miner. My father worked in the underground anthracite mines for 33 years. My grandfather was a union organizer. My great-grandfather worked in the coal mines as a harnessmaker. Many of my uncles worked in the mines and lost their lives.

As you know, for the past 20 years I have worked for the United States House of Representatives. All but eight months of that time have been spent with the Education and Labor Committee.

It is through my various positions with the Committee that I have become familiar with, and ultimately the staff person with primary responsibility for, the Mine Safety and Health Act.

During the past ten years on the Committee, I have devoted the majority of my time to worker safety and health issues. In that role, rarely have I had an opportunity to articulate my personal positions on the critical issues involving MSHA. I welcome that opportunity today.

This Committee's oversight in recent months, as well as the tragic Wilberg mine disaster in 1984 which took 27 lives, have drawn public attention to MSHA's activities.

In all the years that I have dealt with MSHA, the problems of enforcement and compliance have existed. These are not new problems. These are the same problems that existed prior to the enactment of the 1977 statute.

I believe that the agency's turmoil is a result of statutory mismanagement rather than administrative mismanagement. Unfortunately, it took the tragedy of Wilberg to bring the agency's statutory mismanagement into the public forum.

In the Wilberg mine disaster, 27 miners lost their lives attempting to find a means of escape. Their possible escape routes were limited in number due to the use of the two-entry system of mining and the blockage of one of the means of egress. This mining system, in use for many years, raises difficult questions. But the basic question is and always has been: Should the two-entry system of mining be allowed?

As of today, MSHA agrees with those who contend that there may be cases where the driving of more than two entries increases the risk of roof falls. I am concerned, however, that limited escape routes present intolerable risks.

If confirmed, I intend to expeditiously review this issue and ensure that safety is at the core of its resolution.

Section 104(e) of the statute has never been enforced. This section is the Act's most severe enforcement tool, involving withdrawal of miners when MSHA determines that a pattern of violations exists at a mine.

It has been suggested by the United Mine Workers that the Wilberg mine had a pattern of violations. It is conceivable that appropriate statutory management would have resulted in the use of section 104(e) and the prevention of the Wilberg mine fire.

If I am confirmed, promulgation and use of a pattern of violations regulation will be a top priority.

The mine plan approval process has been central to Congressional attempts to mandate safety since 1969. The statute as well as the regulations require that each mine have many approved plans,

such as ventilation, training, roof control, and escape and evacuation. Congress intended for such plans to be site-specific and to be approved and reviewed by MSHA.

While the plans in most cases are approved by MSHA, this approval is often done without MSHA ever visiting the site. Also, the review of these plans does not always occur as regularly as required. The escape and evacuation plan at Wilberg, for example, had never been approved by MSHA.

If confirmed, I will direct the MSHA inspectors to visit all mine sites before approving plans and to check the plans as a routine part of their mandatory inspection process.

This Committee also raised serious questions about MSHA's regulatory review effort, charging that the agency has been systematically reducing worker protections. While I have not studied the specific issues, I agree with the Committee that any diminution of safety and health protections cannot be tolerated and is in fact a direct violation of section 101(a)(9) of the Mine Safety and Health Act.

Furthermore, Title III of the Act envisions that outdated standards based on 1950s and 1960s technology be improved to provide greater safety and health. If confirmed, I intend to address the need for regulatory reform in an expeditious manner and to avoid even an implication of diminished safety and health.

In addition, the 1977 Act placed increased emphasis on health protections. In my view, much remains to be done in the area of health, including the promulgation of a hazard communication standard for miners. Appropriate statutory management should have resulted in improved health standards in the last ten years.

And Senator, as the daughter of a coal miner who has had black lung for the last 20 years, and every year I watch my father become more disabled and less able to do things that he enjoys doing, I think that this is a particularly important area that MSHA has failed to use.

MSHA is primarily an enforcement agency. MSHA's enforcement policies and procedures have been called into question as a result of the Wilberg mine fire. Enforcement policies and procedures were at the center of the debate in the 1969 Act and the 1977 Act. Unfortunately, these Congressional debates also followed tragic disasters. It is time to put a stop to the agency's statutory mismanagement and comply with the will of Congress to prevent mine disasters and fatalities.

To ensure that inspections are done appropriately, MSHA needs a national accountability system. I believe that with the first-class training academy in Beckley, West Virginia, quality of inspection procedures can be assured and should not be an issue.

If confirmed, I intend to see to it that every inspector is qualified to perform his or her job in an exceptional manner.

I agree with the witnesses who testified before this Committee that the practice of having local inspectors also conduct multiple fatality and disaster investigations appears to constitute a conflict of interest and should not continue.

I agree with those who contend that a simple \$20 penalty is not incentive enough to comply with the law. I can assure you that if I

am confirmed, recalcitrant mine operators will suffer the most severe penalties allowed by law.

It is the role of the appointed head of each agency to set the tone for the agency with regard to how the agency should run. The tone that I would set would be one of aggressive enforcement and compliance with the law.

By design, the statute in many areas does not allow for administrative flexibility or discretion in enforcing its provisions. Congress envisioned that compliance with the Act would become second nature to operators because of the punitive consequences of failing to comply. While significant progress has been made, full compliance remains elusive.

And years after passage of the Act, the agency is still embroiled in controversy over enforcement and compliance—the very issues that drove the debate on the 1969 and 1977 Acts.

It has been suggested that the agency's problems can be addressed only by an experienced administrator. I disagree. The agency has experienced managers whose expertise can and should be utilized. Additionally, there are many technically trained mining professionals in the agency.

What the agency needs is a leader with an unquestioned personal commitment to miners' safety and health, a belief in aggressive implementation of the spirit and letter of the law, and the judgment to deal effectively with the controversy inherent in mine safety and health issues.

I believe firmly that my years of experience with a Committee of the Congress has given me not only the requisite knowledge of mine safety and health law, but the sensitivity to the needs of Congress in ensuring that our mine safety and health laws are vigorously enforced.

Thank you very much, Senators, for your time. I would be happy to answer any questions.

[The prepared statement and biographical sketch of Ms. Strunk follow:]

STATEMENT
OF
DOROTHY L. STRUNK
NOMINEE FOR ASSISTANT SECRETARY OF LABOR
FOR MINE SAFETY AND HEALTH
BEFORE THE
SENATE LABOR AND HUMAN RESOURCES COMMITTEE
JULY 29, 1987

Mr. Chairman and distinguished members of the Committee, it is an honor for me to appear before you today as the President's nominee for Assistant Secretary of Labor for Mine Safety and Health.

After my nomination was announced, many of my friends and colleagues asked me, "Why are you doing this? Why do you want to take this on?" The answer to that question is simple, "I think that I can make a difference."

I believe that the two most important qualifications for the position of Assistant Secretary are: first, a demonstrable commitment to miners' safety and health, and second, a knowledge of and respect for the law which MSHA is charged with administering.

I have been concerned about miners' safety and health all of my life. I was born and raised in a coal mining town in Pennsylvania, the daughter of a coal miner. My father worked in the underground anthracite mines for thirty-three years. He has coal workers' pneumoconiosis and in fact, receives federal black lung benefits. In addition, my grandfather was a union organizer, my great grandfather worked in the mines as a harness maker, and most of my uncles worked in the mines.

Professionally, as you know, for the past twenty years I have worked for the U.S. House of Representatives. All but eight months of that twenty years has been spent with the Committee on Education and Labor. It is through my various positions with the Committee that I have become familiar with, and ultimately the staff person with primary responsibility for, the Federal Mine Safety and Health Act.

During the past ten years on the Committee I have devoted most of my time to worker safety and health issues. In that role, rarely have I had an opportunity to publicly articulate my personal positions on the critical issues facing MSHA. I welcome that opportunity today.

This committee's oversight in recent months, as well as the tragic Wilberg mine disaster in 1984 which took the lives of 27 miners, has drawn public attention to MSHA's activities.

In all the years that I have dealt with MSHA, the problems of enforcement and compliance have existed. These are not new problems--these are the same problems that existed prior to enactment of the 1977 statute. I believe that the agency's turmoil is a result of statutory mismanagement rather than administrative mismanagement. Unfortunately, it took the tragedy of Wilberg to bring the agency's statutory mismanagement into the public forum.

In the Wilberg mine disaster 27 miners lost their lives attempting to find a means of escape. Their possible escape routes were limited due to the use of the two entry system of mining and the blockage of one of the means of egress. This mining system, in use for many years, raises difficult questions, but the basic question is: Should the two entry system of mining be allowed? As of today, MSHA agrees with those who contend that there may be cases where the driving of more than two entries increases the risk of roof falls. I am concerned, however, that limited escape routes present intolerable risks. If confirmed, I intend to expeditiously conduct a full review of this issue and ensure that safety is at the core of its resolution.

Section 104(e) of the statute has never been enforced. This section is the Act's most severe enforcement tool, involving withdrawal of miners when MSHA determines that a pattern of violations exists at a mine. It has been suggested by the United Mine Workers that the Wilberg mine had a pattern of violations. It is conceivable that appropriate statutory management would have resulted in the use of Section 104 (e) and the prevention of the Wilberg mine fire. If I am confirmed, promulgation and use of a pattern of violations regulation will be a top priority.

The mine plan approval process has been central to Congressional attempts to mandate safety since 1969. The statute, as well as the regulations, requires that each mine have many approved plans, such as ventilation, roof control, training, and escape and evacuation. Congress intended for such plans to be site specific and to be approved and reviewed by MSHA. While the plans in most cases are approved by MSHA, this approval is often done without MSHA ever visiting the site. However, the escape and evacuation plan at Wilberg had never been approved by MSHA. Also, the review of these plans by MSHA does not always occur as regularly as required. If confirmed, I will direct the MSHA inspectors to visit all mine sites before approving plans and to check the plans as a routine part of the mandatory inspection process.

This committee also raised serious questions about MSHA's regulatory review effort, charging that the agency has been systematically reducing worker protections. While I have not studied the specific issues, I agree with the Committee that any diminution of safety and health protections cannot be tolerated and is in fact a direct violation of section 101(a)(9) of the Mine Safety and Health Act.

Furthermore, title III of the Act envisions that outdated standards based on 1950's and 1960's technology be improved to provide greater safety and health. If confirmed, I intend to address the need for regulatory reform in an expeditious manner and to avoid even an implication of diminished safety and health.

In addition, the 1977 Act placed increased emphasis on health protections. In my view, much remains to be done in the area of health, including the promulgation of a hazard communication standard for miners. Appropriate statutory management should have resulted in improved health standards in the last ten years.

MSHA is primarily an enforcement agency. MSHA's enforcement policies and procedures have been called into question as a result of the Wilberg mine fire. Enforcement policies and procedures were at the center of the debate in the 1969 Act and

the 1977 Act. Unfortunately, these Congressional debates followed tragic disasters. It is time to put a stop to the agency's statutory mismanagement and comply with the will of Congress to prevent mine disasters.

To ensure that inspections are done appropriately, MSHA needs a national accountability system.

I believe that with the first-class training academy in Beckley, WV, quality of inspection procedures can be assured and should not be an issue. If confirmed, I intend to see to it that every inspector is qualified to perform his or her job in an exceptional manner.

I agree with the witnesses who testified before this Committee that the practice of having local inspectors also conduct multiple fatality and disaster investigations appears to constitute a conflict of interest and should not continue.

Finally, I also agree with those who contend that a single \$20 penalty may not be an adequate incentive to comply with the law. I can assure you that, if I am confirmed, recalcitrant mine operators will suffer the most severe penalties allowed by law.

It is the role of the appointed head of each agency to set the tone for that agency with regard to how the agency should run. The tone that I would set would be one of aggressive enforcement and compliance with the law.

By design, the statute in many areas does not allow for administrative flexibility or discretion in enforcing its provisions. Congress envisioned that compliance with the Mine Act would become second nature to operators because of the punitive consequences of failing to comply. While significant progress has been made, full compliance remains illusive.

And years after passage of the Act, the agency is still embroiled in controversy over enforcement and compliance--the very issues that drove the debate on the 1969 and 1977 acts.

While I realize that the controversy centers on complicated issues with no easy answers, I believe that the best approach to addressing the agency's needs is to go back to the law itself and Congressional intent.

It has been suggested that the agency's problems can be addressed only by an experienced administrator. I disagree. The agency has experienced managers whose expertise can and should be

utilized. Additionally, there are many technically trained mining professionals in the agency. What the agency needs is a leader with an unquestioned personal commitment to miners' safety and health, a belief in aggressive implementation of the spirit and letter of the law, and the judgement to deal effectively with the controversy inherent in mine safety and health issues.

I believe firmly that my years of experience with a Committee of the Congress have given me not only the requisite knowledge of mine safety and health law but the sensitivity to the role of the Congress in assuring that our mine safety and health laws are vigorously enforced.

Thank you very much for your consideration. I would be pleased to answer any questions.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

PART I: ALL THE INFORMATION IN THIS PART WILL BE MADE PUBLIC

Name: STRUNK (LAST) DOROTHY (FIRST) LIVINGSTON (OTHER)Position to which Assistant Secretary of Labor for Date of
nominated: Mine Safety & Health nomination: April 23, 1987Date of birth: 2 1 48 Place of birth: Nanticoke, PA
(DAY) (MONTH) (YEAR)Marital status: Married Full name of spouse: F. Michael StrunkName and ages
of children: Steven (14)Melissa (9)

Education:	Institution	Dates attended	Degrees received	Dates of degrees
	Nanticoke H.S.	1962-65	n/a	n/a
	Georgetown Univ. Law Ctr (Adult continuing education class)	1980	"	"
	P.G. Community College	1985-86	"	"

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Outstanding Community Service Award -- 1985

Memberships:

List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations for the last five years and any other prior memberships or offices you consider relevant.

Organization	Office held (if any)	Dates
Port Washington Area Recreation Council (PWARC)	President	1984
PWARC	Treasurer	1985
PWARC	Member of Board	1978-1986
Republican Women of Capitol Hill	Member	1985

Employment record: List below all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

SEE
ADDENDUM

- 1973 to Present: Senior Legislative Associate, Committee on Education and Labor, U.S. House of Representatives. Responsible for activities involving the Mine Safety and Health Administration, the Occupational Safety and Health Administration, Immigration, the Migrant and Seasonal Agricultural Workers' Protection Act, agricultural labor relations, worker notification, the Davis-Bacon Act, the Fair Labor Standards Act, the Federal Employees' Compensation Act, Longshore, and Walsh-Healey.
- 1978-1979: Office Manager, Committee on Ways and Means, U.S. House of Representatives. Supervised a staff of six and tracked legislation in the House and Senate with respect to taxes, trade, and social security. Responsibilities included staff structure, plus the Black Lung Trust Fund and ADA legislation.
- 1987-88: Minority Clerk, Committee on Education and Labor.
- 1985-1987: Clerk-Stenographer, Federal Bureau of Investigation.

**Government
experience:**

List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments other than those listed above.

N/A

**Published
writings:**

List the titles, publishers and dates of books, articles, reports or other published materials you have written.

None

**Political
affiliations
and activities:**

List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last five years.

SEE

ADDENDUM

1986: Donation to Heal for Congress

Future employment
relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Yes. _____

2. State whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.

No. _____

3. Has a commitment been made to you for employment after you leave Federal service?

No. _____

4. Do you intend to serve the full term for which you have been appointed or until the next Presidential election, whichever is applicable?

Yes. _____

Potential conflicts
of interest:

1. Describe any financial arrangements, deferred compensation agreements or other continuing financial, business or professional dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None. _____

2. List any investments, obligations, liabilities, or other financial relationships which constitute potential conflicts of interest with the position to which you have been nominated.

None. _____

3. Describe any business relationship, dealing or financial transaction which you have had during the last five years whether for yourself, on behalf of a client, or acting as an agent, that constitutes a potential conflict of interest with the position to which you have been nominated.

None.

4. List any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any Federal legislation or of affecting the administration and execution of Federal law or policy.

None.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

N/A

Addendum to employment record

1967 to 1978 -- appointed to committee staff in a secretarial capacity; duties included typing, shorthand, filing, and assisting Minority Clerk in tracking all legislation within the Committee's jurisdiction, attending all full committee markup sessions, preparing travel vouchers, minority staff payroll changes and other administrative aspects of committee work; titles and responsibilities changed with new ranking Republican Members and with the rapid expansion of committee staff and legislative issues; in 1977 title was changed from "Legislative Clerk" to "Minority Clerk" and I began working on specific legislative issues in addition to retaining all administrative responsibilities associated with the position of Minority Clerk.

Addendum to political affiliations and activities:

Question: List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last five years.

Approximately \$50/1986: Donation to Neal for Congress.

The CHAIRMAN. Thank you very much.

We have our Ranking Minority Member, Senator Hatch, here. We proceeded somewhat earlier, Senator Hatch, than otherwise scheduled, to accommodate the Secretary, and that did change the time of the hearing, so we are glad to have you here.

Senator HATCH. I appreciate that.

I wonder, Mr. Chairman, if I could make some opening remarks.

The CHAIRMAN. Certainly.

Senator HATCH. Welcome, Ms. Strunk.

Ms. STRUNK. Thank you.

Senator HATCH. We appreciate having you before the Committee.

I am glad to see that the Committee is holding this hearing on the nomination of Dorothy Strunk to be Assistant Secretary of Labor for the Mine Safety and Health Administration.

I think this nomination comes at a particularly critical time in the history of MSHA, coming as it does right after the completion of our oversight hearings.

The hearing which I conducted on the Wilberg mine fire incident stands, as a stark reminder that this agency simply must be improved, because an ineffective MSHA is a danger to the health and safety of miners and the mining industry.

I believe MSHA needs a confirmed, capable Assistant Secretary at its helm to guide it through this difficult period.

Dorothy Strunk is certainly no stranger to this Committee. I am familiar with her work as a longstanding member of the staff of the House Committee on Education and Labor and can personally attest to her professional qualities and her professionalism, her competence, and her personal commitment.

Secretary of Labor Brock's strong endorsement of her nomination certainly mirrors my assessment of her work and capability, and I believe that Ms. Strunk can be an effective head of MSHA.

All of us on this Committee are aware, however, that objections have been raised to this nomination. Concerns have been expressed that Ms. Strunk does not possess the educational background or management experience necessary to be an Assistant Secretary for this agency.

While I believe these factors have to be taken into account, I also believe that we should judge each nominee on the basis of his or her own record and character. A degree is no absolute guarantee of quality, and not everyone has the luxury and chance to attend college. I feel what is inside a person is much more important than what is hanging on the wall. And there are individuals with lengthy management experience whom no one on this Committee would like to see at the head of MSHA. Each individual has to be judged on his or her individual basis.

I hope the Members of this Committee who do not already know Ms. Strunk will come to this hearing with an open mind and will meet her and get acquainted with her. She deserves an opportunity to be heard, a chance to show us what she can bring to this important position, and I for one am confident that today's hearing will provide all of us with sufficient reason to follow the recommendation of Secretary Brock and vote in favor of Dorothy Strunk's nomination to be Assistant Secretary of Labor for MSHA.

Now, Mr. Chairman, I understand the letters the Committee has received in conjunction with this nomination will be made part of the record. I think it is interesting to note that Ms. Strunk has received support from all of the Republican Members of the House Labor Committee, six State OSHA or Labor Commissioners, and Congressman Tim Penny.

I feel these endorsements speak well of the nominee and her record to date.

I appreciate your allowing me to make these opening remarks, and Ms. Strunk, I will do everything I can to get your nomination through the committee. I think you will make a wonderful addition to MSHA. And I think your personal background militates in favor of this nomination—the suffering that your family has gone through and the personal caring that you have shown.

So I hope that Members of this Committee and others in the Senate will evaluate your nomination by looking at all the facts and your record of experience in dealing with these particular issues.

You know it is a tough job, and you know it will be very difficult to turn it around in a complete sense and have everyone happy, from the coal miners to the industry people. This is a tough thing, but I know if anyone can do it, you can.

I just want to tell you that you have my strong support, and I hope the support of the Chairman and others on this Committee.

Thank you, Mr. Chairman. I appreciate it.

Ms. STRUNK. Thank you, Senator Hatch.

The CHAIRMAN. As has been pointed out, Ms. Strunk, you have had a long and dedicated career on the staff of the House Education and Labor Committee, going back to 1967, and obviously you should be proud of that service, and we commend you for it.

As I indicated in my opening statement, the oversight hearings held by this Committee last year and earlier this year revealed serious problems in the agency's performance. It is an agency of 3,000 employees with a mandate to protect the safety and health of some 500,000 miners.

The mining industry over which the agency has jurisdiction is diverse, and the issues that must be addressed on a day-to-day basis are technically complex and demanding and can make the difference between the life and death of miners.

So the agency needs strong and competent leadership. You have been nominated to assume that leadership, so I think it is important that the agency consider your qualifications to manage the agency and give it the vitality and direction it needs.

I think we must be concerned that all of the labor unions whose members are covered by the Mine Safety and Health Act and whose safety and health depend on how well the agency enforces the Act have all written to the Committee, opposing your nomination because they do not feel you are qualified. These include: the United Mine Workers, the Steel Workers, the International Chemical Workers, the Operating Engineers, the Oil and Chemical and Atomic Workers, the Industrial Union Department of the AFL-CIO, and the Teamsters. In addition, the Coal Employment Project, an association of women miners, is also opposed to your nomination for the same reason.

You have your supporters. The Committee has received letters in support of your nomination from Secretary Brock, Minority Members of your Committee, the American Mining Congress, several State labor presidents, and a former majority counsel of the House Subcommittee on Safety. We will include all of those as a part of the record.

You have sent me a letter recently in which you highlighted the experience which you felt qualified you for the position for which you have been nominated, so maybe that is a good place to start.

You said that from a heritage standpoint, you are the daughter of a retired coal miner who spent 30 years in the mines and suffers from black lung. You said that from a professional standpoint, you had responsibility over mine safety and health issues for the past eight of your twenty-year tenure with the House Committee on Education and Labor, and that you have been closely involved in the formulation of the 1977 Mine Act and experienced in the development of the bill; you prepared Members for the Committee's extensive oversight of the 1977 Mine Act, and this led to your drafting of legislation for Republican Members to amend that Act.

You said you were closely involved in the formulation of the 1977 Act. Could you tell us what your actual contribution to the formulation of the Act was?

Ms. STRUNK. Senator, I think I also sent you a second letter. In the first letter there was a typographical error where we referred to "1977"; "1979" was supposed to be the exact date of when I took over with primary responsibility for the Mine Safety and Health Act.

However, in 1977, I did play a role in that legislative activity. I was not the staff person with primary responsibility, but if you recall back in 1976, there was a lot of labor legislation moving through Congress at that time. We had the Mine Act, we had the Black Lung Amendments, we had common situs picketing, and there was labor law reform.

On the Republican staff of the Education and Labor Committee, there was one labor counsel who had primary responsibility for all of those issues. I served to help her whenever she asked.

I did most of the work, in all honesty, Senator, on the Black Lung Amendments that were moving through Congress at the time. But I did fill in at meetings when it was necessary, with Members and various groups, on the 1977 Amendments to the Mine Act. I sat in on some drafting sessions during conference preparation. But I was not the staff person with primary responsibility. At that same time, Senator, my official role was that of minority legislative clerk, and my responsibility at that time for the Committee was to track all legislation.

I was responsible for attending every mark-up within the Committee and reporting back to all of the Members on what transpired at each mark-up. That allowed me to become very familiar with the amendments that were being offered, the debate on why those amendments were necessary, and the debate against those amendments.

So I believe that I did have a good understanding of what was driving the 1977 statute as well as the hearings that we held following that debate in 1979.

The CHAIRMAN. Well, in both of your letters which I have here, you mentioned, "through this experience and my close involvement with the formulation of the 1977 Mine Act".

Ms. STRUNK. Well, that is the close involvement I just referred to, Senator.

The CHAIRMAN. I see. And the other letter indicates, "through this experience and my close involvement with the formulation of the 1977 Act".

What I am trying to determine is exactly what your role was in terms of the formulation of the Act.

Ms. STRUNK. Probably the best way to describe it, Senator, is that I was not involved on the House Floor as the primary staffer in the 1977 Act. But I did a lot of the leg work, if you will, and a lot of the research for the counsel.

The CHAIRMAN. All right. Well, did you participate in the drafting of it?

Ms. STRUNK. No, Senator, I did not.

The CHAIRMAN. Were you involved in preparing Members for the hearings concerning the Act?

Ms. STRUNK. No, Senator, not in the 1977 Act.

The CHAIRMAN. Were you involved in the Floor debates or conferences between the House and the Senate?

Ms. STRUNK. I was not involved on the Floor, but I was involved in meetings with the staff and some of the Members in preparing for that, yes.

The CHAIRMAN. Were you involved in the Conference?

Ms. STRUNK. No, Senator.

The Chairman. Well, then, do you really consider your activities as being closely involved in the formulation of the 1977 Act?

Ms. STRUNK. Yes, Senator. I think that a lot goes on, as your staff is well aware. A lot of preparation and activity and work goes on behind the scenes by the staff in formulating positions and getting the Members ready.

The CHAIRMAN. Well, if you had the choice of words of saying "somewhat limited involvement" rather than "close involvement" in the formulation, don't you think that that would be a fairer characterization of your involvement?

Ms. STRUNK. No. I stand by what I said, Senator. My intention in saying that was not to mislead you into thinking that I was the primary staffer responsible for that statute. But I was closely involved with that issue. You cannot work on Black Lung Amendments, Senator, and not know what is going on on the other side also, on the mine safety and health side.

It was not an intention to mislead you.

The CHAIRMAN. Well, the letter does not say that you were closely involved in the black lung; it says you were closely involved in the mine safety. And that is the principal legislation dealing with the subject matter which I think we are most concerned about. And I think the record will stand how people want to evaluate the various words, that you were not involved in the drafting, you were not involved in preparing the Members for the hearings, you were not involved in the conferences, and you were only peripherally involved in the Floor discussions and debates. And we will leave it up

to the Members whether they want to interpret that kind of activity as being "closely involved".

Let me move on. I received a letter from Secretary Brock on your behalf. He said, "With her work on health and safety issues and her close involvement in formulating the Mine Safety and Health Act specifically"—those are exactly his quotes—"Ms. Strunk has an exceptional understanding of the law and legislation."

Secretary Brock specifies this as a key factor in your qualification, and in Secretary Brock's letter, you now were not only involved closely with the formulation of the 1977 Act, you actually formulated it.

Did you formulate it?

Ms. STRUNK. As I stated earlier, Senator, I was an assistant in that effort. I was not involved. And that is Secretary Brock's letter.

The CHAIRMAN. Well, did you mislead Secretary Brock concerning the extent of your activities in connection with the formulation of the Act?

Ms. STRUNK. No, no. I did not mislead Secretary Brock.

The CHAIRMAN. Well, how did he draw that conclusion that, "her involvement in formulating the Mine Safety Act specifically"—how did he get that? If he did not get it from you, whom did he get it from?

Ms. STRUNK. Senator, I think that when I explained to him my involvement on the staff and working with the person who had primary responsibility in formulating positions for the Members, did I ever take those positions directly to Al Quie, who was the Ranking Member at that time? I do not believe that I did.

Did I sit in meetings with Ron Sarasin, who was the Ranking Republican on this Subcommittee at that time? Yes, I did.

The CHAIRMAN. In your letter to me, you also said that you were involved in the preparation of Members for the Committee's extensive oversight of the Mine Act. Is that correct?

Ms. STRUNK. Yes, it is.

The CHAIRMAN. Were those activities in connection with a series of hearings in 1979 and 1980 by the House Subcommittee on Health and Safety?

Ms. STRUNK. Yes, sir.

The CHAIRMAN. And were those hearings concerned with the complaints about the Act by the Stone, Sand and Gravel Industry and others and defense of the Act by organized labor and others?

Ms. STRUNK. I think there was a bill introduced at the time, Senator, that was pending in the House that had 200 some-odd cosponsors that would have either exempted or transferred stone, sand, and gravel from the Mine Act.

The CHAIRMAN. That was when the Stone, Sand and Gravel Industry were seeking exemption from the 1977 Act and transferring that jurisdiction to OSHA; is that correct?

Ms. STRUNK. That is correct.

The CHAIRMAN. And how did the Minority Members you were preparing for the hearing feel about that?

Ms. STRUNK. The Minority Members, for the most part, were divided. Some of the Minority Members supported it; some of the Minority Members opposed it.

The CHAIRMAN. Approximately how many stone, sand and gravel mines are there?

Ms. STRUNK. There are many. I have no idea how many there are total, Senator, but there are quite a few stone, sand and gravel operations in this country.

The CHAIRMAN. Well, as I understand, there are about 12,000; approximately 18,000 mines which include coal, metal, nonmetal and stone, sand and gravel, and of the 18,000, 12,000 are actually stone, sand and gravel mines. Does that sound about correct?

Ms. STRUNK. Yes, it does.

The CHAIRMAN. I understand the Rousselot amendment was repealed months later in 1982, and the Stone, Sand, and Gravel Industry was returned to the jurisdiction of MSHA; is that correct?

Ms. STRUNK. That is my understanding.

The CHAIRMAN. So actually, if the stone, sand and gravel miners were exempted and the jurisdiction transferred to OSHA, that would leave only about one-third of the mines still left under MSHA; is that about right?

Ms. STRUNK. Yes.

The CHAIRMAN. Was there a feeling expressed by some of the Minority Members that if the Stone, Sand and Gravel Industry were shifted to OSHA jurisdiction, the next step would be to then shift the remaining one-third of the mines to OSHA jurisdiction so there would be no more need for MSHA?

Ms. STRUNK. That was never something I heard my Minority Members talk about. I think that the argument that the stone, sand, and gravel industry was making to those Members who were on their side was that stone, sand, and gravel quarrying was more like construction and therefore should be under the OSHA Act rather than the Mine Act, which was geared to underground coal mines.

The CHAIRMAN. Did you ever hear or participate in discussions where strategy of removing the Stone, Sand and Gravel Industry from MSHA, and moving it over to OSHA, that this would open the way to moving the other mines into OSHA?

Ms. STRUNK. No. I have never heard that before, Senator.

The CHAIRMAN. The Stone, Sand, and Gravel Industry was exempted from the Mine Safety and Health Act and then transferred to OSHA's jurisdiction by the Rousselot amendment in 1981, was it not?

Ms. STRUNK. It was a rider to the Appropriations Act, Senator. It was never an amendment to the Mine Act, but the effect was the same.

The CHAIRMAN. Were you involved in that in any way?

Ms. STRUNK. I was involved in it; yes, I was. I did not draft the amendment. That was drafted by our Full Committee staffer, who was counsel for Senator Hatch at one time; it was Jim Stephens who dealt with that. But I was on the Floor of the House when it was debated in the event that any other questions came up regarding the Mine Safety and Health Act. But Mr. Rousselot worked directly with our other counsel.

The CHAIRMAN. Do you remember whether you supported that transfer?

Ms. STRUNK. Yes. My personal position of the transfer, Senator, was that I did not support it.

The CHAIRMAN. Pardon?

Ms. STRUNK. I did not support the transfer of stone, sand, and gravel.

The CHAIRMAN. The Rousselot amendment then was repealed several months later in 1982, and Stone, Sand, and Gravel was returned to MSHA; is that correct?

Ms. STRUNK. That is correct.

The CHAIRMAN. You said in your letter that these hearings led to your drafting of legislation amending the Mine Act. Was that the bill submitted by Representative Kramer, the Ranking Minority Member of the House Subcommittee?

Ms. STRUNK. That was one of them, yes.

The CHAIRMAN. Did you draft the bill?

Ms. STRUNK. Yes, I did.

The CHAIRMAN. Did you have any assistance in doing that?

Ms. STRUNK. I worked with legislative counsel, as I always do, Senator.

The CHAIRMAN. So whatever assistance was limited to the legislative counsel?

Ms. STRUNK. My assistance in drafting that legislation—yes, Senator.

The CHAIRMAN. Did you have any input from the American Mining Congress?

Ms. STRUNK. I believe the American Mining Congress met with Ken Kramer, Senator, as well as—that legislation also included a transfer provision. It again transferred stone, sand, and gravel. And that was included in there, I would assume, as a result of Ken Kramer's meetings with some other industry representatives.

The CHAIRMAN. Well, you know, we all have meetings.

Ms. STRUNK. That is correct.

The CHAIRMAN. And we meet with different groups. But there is somebody who eventually ends up drafting. And I am just wondering whether you were responsible for the drafting of that legislation.

Ms. STRUNK. Senator, I drafted that legislation at the request of Congressman Ken Kramer. The provisions that were in that legislation were put in there at the request of Ken Kramer. I attended meetings in Congressman Kramer's office with members of the American Mining industry, with members of the stone, sand, and gravel industry; but I also recall that Congressman Kramer brought in Jack Sheehan from the Steel Workers to meet with him, and so he did meet with all interested parties who he thought would have an interest in mine safety and health.

The CHAIRMAN. But the final drafting, you did, is that correct?

Ms. STRUNK. That is correct, Senator.

The CHAIRMAN. The chart here compares the recommendations for changes in the Mine Act as circulated in 1981 by the American Mining Congress, with the provisions of the Kramer bill and with the 1977 Act. On many key provisions, the Kramer bill is identical to the AMC recommendations, which water down the Act. Maybe we could go over the various provisions. We will give you a copy of the chart.

On the far left is the issues and the AMC recommendations, the Kramer bill, and the 1977 Mine Act provisions.

One of the questions was what they call the S&S definition of the violations. There was no definition under the existing law of substantial violations, but the court had interpreted it so broadly as to mean any violation but technical violations. Then, the AMC recommendations come in—"condition or practice that could reasonably be expected to cause death or serious bodily harm". That is obviously a much more restrictive interpretation. The Kramer bill is virtually identical. And the definition of "unwarranted failure", there is no definition, but the way the courts had interpreted made that in terms of "use of ordinary negligence". And the AMC recommendation adds "definitions of unwarranted failure as standards of gross negligence", obviously restricting even further the coverage of the limitations.

Then you have the compliance assistance visits. There is no provision here. Those are the compliance visits to permit the various inspectors to come on in and find out and to make them penalty-free in lieu of regular inspections. The AMC makes recommendations. The Kramer bill is virtually identical.

Reductions of mandatory inspections, the AMC went from four to two; the Kramer bill actually reduced the number of personnel. So effectively, the results went from four to two.

The notice of violations, again, identical provisions in terms of AMC and Kramer.

And then the unwarrantable failure closure orders; the closure orders issued under 104 for repeated violations of "any standard", and these were changed to "the same standard" as opposed to "any standard"—again, much more restrictive.

[The chart referred to follows:]

PROPOSED AMENDMENTS TO 1977 MINE ACT		1977 MINE ACT PROVISIONS	
ISSUE	AMC RECOMMENDATIONS	KRAMER BILL	
DEFINITION OF SIGNIFICANT AND SUBSTANTIAL VIOLATION	Adds definition of significant and substantial violation: "a condition or practice that could reasonably be expected to cause death or serious bodily harm."	Adds definition of significant and substantial violation: "a condition or practice that could reasonably be expected to cause death or serious bodily harm."	No definition of significant and substantial violation but courts had interpreted terms broadly to mean any violation but technical violation at the time.
DEFINITION OF UNWARRANTABLE FAILURE	Adds definition of unwarrantable failure as standard of gross negligence.	Adds definition of unwarrantable failure as standard of gross negligence.	No definition of unwarrantable failure but courts had interpreted term broadly to mean ordinary negligence.
COMPLIANCE ASSISTANCE VISITS	Authorizes MSHA to conduct compliance assistance visits for any operator who requests them which are citation and penalty-free in lieu of regular inspections.	Authorizes MSHA to conduct compliance assistance visits for any operator who requests them which are citation and penalty-free in lieu of regular inspections.	No provision.
REDUCTION OF MANDATORY INSPECTIONS	Reduces number of mandatory inspections from 4 per year to 2 per year in underground coal mines.	Reduces number of mandatory inspections from 4 per year to 2 per year in underground coal mines.	Requires 4 mandatory inspections per year of underground coal mines.
NOTICES OF VIOLATION	Creates notices of violation for non-serious violations in lieu of citations to which no fine is attached.	Creates notices of violation for non-serious violations in lieu of citations to which no fine is attached.	No provision.
UNWARRANTABLE FAILURE CLOSURE ORDERS	Closure orders only issued under Section 104(d) for repeated violations of the same standard as opposed to <u>any</u> standard.	Closure orders only issued under Section 104(d) for repeated violations of the same standard as opposed to <u>any</u> standard.	Closure orders issues under Section 104(d) for repeated violations of <u>any</u> standard.

(Note: Due to printing limitations, and in the interest of economy, additional material accompanying this chart of the American Mining Congress was retained in the files of the Committee.)

(Note: Due to printing limitations, and in the interest of economy, additional material accompanying this chart of the American Mining Congress was retained in the files of the Committee.)

The CHAIRMAN. Do you remember those provisions as being part of the bill?

Ms. STRUNK. Had you asked me without showing me that chart, I would have said that I do not specifically remember all of the provisions of the Kramer bill. But Senator, those are the provisions of the Kramer bill. I was the staff person doing what I was asked to do by Congressman Kramer.

If you are asking me whether I support all of the provisions that were in the Kramer bill, that is another issue. I do not support all of the provisions that were in the Kramer bill.

The CHAIRMAN. Well, taken together, do you think the Kramer bill you drafted radically alters the enforcement structure of the 1977 Mine Act by making it much more difficult for inspectors to withdraw miners from a mine when health and safety violations are present?

Ms. STRUNK. Without a doubt.

The CHAIRMAN. Do you think the bill makes it more difficult for MSHA to level monetary penalties against coal operators?

Ms. STRUNK. I am sure it did. I think it probably removed the provision for mandatory penalties. But again, I would have to go back and look at the Kramer bill.

The CHAIRMAN. Would you say that the bill effectively guts the enforcement structure of the Act?

Ms. STRUNK. I would think that it effectively took out most of the punitive provisions of the Act, yes.

The CHAIRMAN. Well, that is effectively gutting it, isn't it?

Ms. STRUNK. Yes.

The CHAIRMAN. Would you say that the bill expresses the position of the American Mining Congress?

Ms. STRUNK. I would think that it does.

The CHAIRMAN. And your position on the bill at the time you were drafting it was just to—

Ms. STRUNK. Senator, Ken Kramer never asked me what my position was on the bill.

The CHAIRMAN. In looking through the various provisions, could you identify which ones you agree with or which ones you differ with?

Ms. STRUNK. Well, I think probably the only one that I—I believe that the definition of S&S, if we had a choice, should be in the statute rather than allowing the court to decide.

Compliance assistance visits, I think, is a helpful tool for operators, and I understand that MSHA does now do compliance assistance visits.

But Senator, I have no intentions of suggesting legislative reform to the Mine Act.

The CHAIRMAN. We had the former Chief, of the Division of Safety who actually indicated to us that he opposed including any definition of these terms in the statute itself, as these kinds of concepts are best left to case-by-case determination. That is the position of the former Director of Safety. But you think they should be?

Ms. STRUNK. Well, I guess with my background as a legislative staffer, I think that if Congress has an intent of what a significant and substantial violation of the statute is, we should include that

in the statute. That way we have a better control to see whether, indeed, our congressional intent is being complied with.

The CHAIRMAN. One significant attempt to change the Mine Safety and Health Act you drafted, something which essentially was the AMC's position despite your own personal opinions. And the question is how we can be sure that you will not be disproportionately swayed by the views of the AMC as the Assistant Secretary.

Ms. STRUNK. My understanding, though, Senator, is that if I am the Assistant Secretary, I will be the boss. And as a Hill staffer, I am not the boss. I do what my Members tell me to do.

The CHAIRMAN. I have some other questions, but I will yield to the Senator from Utah.

Senator HATCH. Well, thank you so much, Mr. Chairman.

I have to admit I am not nearly as interested in what Congressman Kramer's ideas are in this matter as I am your own. I would hate to think that Hill staffers are going to be always held totally responsible for what their Senators or Congress people come up with. I might as well just say right now that I am going to hold my staff responsible when they work with me—

Ms. STRUNK. If I am not confirmed, Senator, I will have a different look on my job, too.

Senator HATCH. But if they have an opportunity to serve their Government like you do, then I do not think they should be held as accountable as I am.

Basically you disagreed with the bill that you drafted; is that not right?

Ms. STRUNK. Yes, Senator, I did.

Senator HATCH. Sure, you did.

Ms. Strunk, are you familiar with the hearings on mine safety that were held before this Committee in September of last year and in March and April of this year?

Ms. STRUNK. Yes, I am.

Senator HATCH. Okay. Would you agree that the testimony in those hearings indicated that MSHA is an agency with problems, problems with enforcement, problems with management, problems with consistency?

Ms. STRUNK. Yes. Most definitely.

Senator HATCH. Would you also agree that the hearings indicate that MSHA needs stronger leadership in enforcing the law and in following the rulemaking procedures set forth in the Federal Mine Safety and Health Act?

Ms. STRUNK. Yes.

Senator HATCH. Your answer is yes?

Ms. STRUNK. Yes, sir.

Senator HATCH. Okay. I believe Alan McMillan, the Acting Assistant Secretary for MSHA has taken several positive steps—I have a lot of respect for him—and has begun the needed reformation process. I would like to know what actions you would take to restore leadership, improve morale, strengthen compliance and enforcement, and enhance MSHA's credibility with Congress and the public?

Ms. STRUNK. I would follow through on many of the programs that Secretary Brock has put in place over in MSHA: accountabil-

ity systems, the restoration of a special investigation team. But I think, Senator, the most important problem in MSHA today is one of their own noncompliance with the statute. There are many provisions that are in this statute that, as I said in my statement, conceivably could have resulted in no Wilberg fire.

Congress looked at these disasters and these fatalities in 1969 and 1977. There are provisions in place in the statute. The statute has to be aggressively enforced. And, Senator, I am committed, as the daughter of a coal miner and as a legislative staffer who has a deep respect for a statute and for congressional intent, in seeing that the statute is carried out.

Senator HATCH. Thank you. Some critics have asserted that MSHA has not effectively complied with Section 101(a)(9) of the Act which prohibits the agency from promulgating a regulation which provides a lesser degree of safety than an existing regulation.

Now, do you agree with that criticism? And if your answer is yes, what would you do about that?

Ms. STRUNK. Again, as the head of the agency, I think a great, a very important factor is the tone that the head of the agency sets, and the tone that I would set would be one of aggressive enforcement, safety and health of miners being the key. That is what MSHA is there for, and that is their job.

Senator HATCH. Do you agree with the criticism, though?

Ms. STRUNK. Yes, I do.

Senator HATCH. Okay. In light of the evidence we have seen during our hearings, what changes would you make to existing investigatory procedures in instances in which MSHA itself may have contributed to the cause or the severity of the accident?

Ms. STRUNK. I think that the concept of the special investigation unit, which is in MSHA, is a good one and needs to continue. I do not think that the special investigations unit, however, should get involved in the internal problems should there be questions about an inspector. I think that would then diminish their effectiveness in-house.

Internal problems regarding inspectors should be turned over to the IG's office.

Senator HATCH. What are your views on the civil penalty provisions of the Act? For instance, is a \$20 assessment for a nonsignificant or nonsubstantial violation sufficient to deter future type conduct?

Ms. STRUNK. I think that in most instances, Senator, it is not sufficient to deter compliance with the statute.

Senator HATCH. So you would change that?

Ms. STRUNK. Well, that is a regulatory approach, as you know.

Senator HATCH. Right.

Ms. STRUNK. And it would take a long time to change that reg. But as I understand it, there are ways to get around a \$20 assessment. You have within the regs a mechanism to do special assessments, and I think probably more special assessments need to be done.

Senator HATCH. Do you believe the tailgate should be kept open in mines utilizing the longwall mining technique?

Ms. STRUNK. I think that is a very important issue, Senator. I think in the two-entry system it is important to keep that tailgate open.

In more than two entries, you have to look at all of the other issues involved. If there is a cave-in at that tailgate section, it might actually be more dangerous to send a miner in there to clean up because you have to remember that there is already a lot of crib and support put in place.

So I think you have to look at that on an issue-by-issue basis, but certainly in a two-entry system, it is necessary.

Senator HATCH. Do you think such requirements should apply to both two-entry and multiple-entry longwall mines?

Ms. STRUNK. Again, you have to look at what is going on at the multiple entry. My gut reaction is yes, but, again, look at the cave-in. If you have a fall, it might be better to mine past it than to send somebody in to repair it.

Senator HATCH. Let me say this. I do not want to take too much time this morning, Mr. Chairman. I will submit the rest of my questions. But let me just end by saying this.

I see my friend Rich Trumka back there. Rich, you know this Administration has had its share of criticism for not bringing women into positions of leadership. Here we have a person that has spent over 10 years working on the Hill in areas that are, it seems to me, crucial to you, to me and to so many others. Though some mistakes have been made in the past, some of us have worked hard to try and help miners throughout our country with regard to safety, and I think you would have to admit that.

I would give her a chance. Before I would come out and completely try to derail this nomination, I would give her a chance to try. I think you are not only going to be pleasantly surprised, but also I think you are going to be very much benefited. You will be very happy in the end.

I have as much interest in this as you do. I would like to see this able woman given this opportunity.

Let me just say this to you, Dottie. You know what you are talking about, and I know that if you take this job you realize that you are paving the way. It is something that should not be needed, but it is needed. I might as well be honest. You are paving the way for other women to lead out in these very important areas of industry.

Now, you are going to be judged. If you get this job—and I believe you will because I think the Chairman will work with me on this. If he will, maybe President Trumka will. If you get this job, this is a wonderful opportunity for you to show—you should not have to—that women can take these very, very difficult jobs that men have botched up terribly and really turn them around and do something good with them. I think this is one of those pivotal jobs that would establish women's leadership in this country.

I think it would be a pathetic thing if you do not have this opportunity. I think it would be a pathetic thing if Alan McMillan has to spend the rest of this President's term in an acting position handling MSHA, although I think he is doing a terrific job. But he has other things where he can do a good job also, and I think he has learned through this process how important it is to do a great job. I

think very few people are going to give him major criticisms. I think he has jumped on the ball here.

I just hope that Members of this Committee will give Dottie Strunk a chance, and I hope that the miners throughout this country will give her a chance. I am willing to bet that she will be the best MSHA leader, we have ever had. And I will bet that the miners will be the most pleased of all.

If they give her this opportunity—and let us be honest about it—the reason I am talking to Rich Trumka is because everyone knows the line-up of this Committee. There is no use kidding about it. If they want to stop her nomination, they can stop it.

So I am asking my Chairman, for whom I do have a great deal of respect, with whom I have worked pretty closely over the last 11 years, sometimes under very trying circumstances for him and me, to keep an open mind and to give her a chance. And I will make a commitment. I will make a commitment to my Chairman and to other members of this Committee on both sides, and to Rich Trumka that I will stay right on top of this and do my very best to see that Ms. Strunk does the best job that can be done.

Dottie, I have a multiple interest in this. Not only do I like you, and appreciate and respect what you have tried to do in the past and the background that you have, but I think it would be incredible if you were stopped because you do not have a college degree. I do not think that it is crucial to anything, to be honest with you. Some of the dumbest people I have ever met are attorneys. [Laughter.]

Senator HATCH. Some of the brightest I have ever met, too, I should say. They have plenty of degrees, but some of them do not have very good judgment. I think you have great judgment.

Last but not least, I really believe that it would be a wonderful opportunity for you to break down some of the barriers that exist for women in some of these industries. You know that you would have that burden. You should not have, I agree, but you will have it because that is the way it is.

So without taking more time, I have to apologize to Mr. Trumka that I will not be able to stay, but I will read your statement. I hope that you will change it somewhat in light of what has been said, but if you do not, I still respect you. But I hope you will consider giving her this chance because there is no use kidding. None of us want to, under the present circumstances, ignore what you say. I do not want to. I have not since I have been on this Committee and since you have been President of the UMW. I think you know that, and I am not going to in the future.

I think you ought to give her a chance. I know you can stop this nomination if you want to, but I think it would be a pathetic thing to do. I think it might be a very, very favorable thing for you over the long run if she is confirmed, and I will work to see that it is so, and I believe that, Dottie, you will too.

I appreciate you being here, and I think you have answered these questions. I have a number of other very technical questions that I know you can answer. I just wanted to let everyone know that you have that capability, background, experience, and intelligence.

I am proud of you. I am proud the President put your name in nomination. I am proud of you being here. I support you and I hope that others will also.

Thank you, Mr. Chairman.

Ms. STRUNK. Thank you very much, Senator Hatch.

The CHAIRMAN. Thank you, Senator Hatch.

I do not think that anyone is questioning that Dorothy Strunk is not a good woman. The real question is whether she is a qualified woman. That is what we will have over the course of our hearing.

Senator HATCH. I think by the time it is over you will find she is qualified, too.

The CHAIRMAN. That is fine.

Senator HATCH. Thank you.

The CHAIRMAN. At some time did the MSHA agency establish a task force on two-entry systems in January of 1985 following the Wilberg mine disaster?

Ms. STRUNK. I am not sure of those dates, Senator, but I do know there was a task force established, yes.

The CHAIRMAN. And when the task force issued its report in June of 1985, which applied to all longwall mines as well as to two-entry mines, was this published in the Federal Register?

Ms. STRUNK. I do not think that the report was published in the Federal Register, Senator. My recollection is that notice of the establishment of the task force and the fact that a meeting was going to be held in Denver, Colorado, or somewhere, to gather information on this issue was published in the Federal Register.

The CHAIRMAN. And do you remember whether the task force report made 35 recommendations, only three of which applied strictly to the two-entry system mines?

Ms. STRUNK. Do I remember what they are, Senator?

The CHAIRMAN. Well, no, but do you remember that they had 35 recommendations and only three which applied to the two-entry system?

Ms. STRUNK. I remember that they made many recommendations, and few of them applied to the two-entry system, yes.

The CHAIRMAN. Was there some indication that the recommendations might be implemented by the agency at all longwall mines?

Ms. STRUNK. I am not sure. I have a vague recollection that this was going to be sent out in some sort of a policy directive memo, which is MSHA's standard operating procedure, I think, in most instances. They will send out memos to their district offices and field offices and suggest that these things be used in enforcing the regulations.

The CHAIRMAN. Well, it was generally considered that those that applied to the two-entry system mines might be implemented at the longwall mines as well, was it not?

Ms. STRUNK. Yes. I understand that they are considering putting those in, if they have not already in the roof control reg that is about to be issued as a final reg in MSHA, as a result of the oversight hearings that this Committee has held, I believe.

The CHAIRMAN. Well, I am talking back at that time. Was not there some indication that the recommendations might be implemented by the agency at all longwall mines?

Ms. STRUNK. I really do not know, Senator.

The CHAIRMAN. You do not remember whether the industry was upset by that possibility?

[No response.]

The CHAIRMAN. Do you remember contacting any agency officials to complain about the notice in the Federal Register?

Ms. STRUNK. Oh, me personally?

The CHAIRMAN. Yes.

Ms. STRUNK. I was very upset that a notice in the Federal Register was sent out that MSHA was going to finally do something on two-entry systems which would lead one to believe that a final decision would be made on whether or not two-entry systems could be used, should be used. I think "should be used" is what everyone was looking towards. And the report, in fact, dealt mostly with longwall mining. There is still the issue of two-entry systems. It still has not been answered today: Should two-entry systems be allowed?

That was my problem with the report. If it is a longwall mining report, call it a longwall mining report. But if you are going to issue a report on two-entry systems, then call it a two-entry system report.

The CHAIRMAN. But is it your testimony that some of the recommendations that applied to the two-entry mines could not be applied to the longwall mines?

Ms. STRUNK. No, Senator. Of course, they could be applied.

The CHAIRMAN. Well, we will move on.

As I understand, it was generally understood or thought at that time that some of those recommendations were going to apply to the longwall mines. The industry was upset, and there was contact made with the agency officials to complain about notice in the Federal Register.

Did you ever talk to Assistant Secretary Zegeer during this period of time?

Ms. STRUNK. Again, when I talked to Secretary Zegeer about the issue, it was not about the inclusion of the recommendations in regulations, Senator. I am not really familiar with that. It was about the report itself. All of those longwall recommendations that were made are good recommendations. They all deal with better protection for the miners.

The CHAIRMAN. Well, did you agree or differ with the longwall recommendations?

Ms. STRUNK. I do not disagree with those longwall recommendations.

The CHAIRMAN. Well, then, you agree with them?

Ms. STRUNK. That is right. The issue was not whether I had problems with what the report said—

The CHAIRMAN. Well, I am asking you whether now, just another question. I am not asking about the procedure. I am asking about the substance.

Ms. STRUNK. Yes.

The CHAIRMAN. Did you agree with those or did you differ with those?

Ms. STRUNK. I think that I agree with them. My recollection is that I had no problems with those recommendations.

The CHAIRMAN. You did call Zegeer; is that correct?

Ms. STRUNK. That is correct.

The CHAIRMAN. And who else did you call?

Ms. STRUNK. Well, I attempted to call Assistant Secretary Zegeer. He was out of town. I was put in touch with his assistant, Mr. Katen. I then went on and talked to Matt McCullough over in MSHA, who I understand was in charge of the task force, and still did not feel like I had an answer to my question, which was—

The CHAIRMAN. Can you describe what the nature of those conversations were?

Ms. STRUNK. Yes. The nature of the conversation was: You told us you were going to give us a report on the two-entry system of mining, but you gave us a report on longwall mining.

That was the nature.

The CHAIRMAN. And then, so what?

Ms. STRUNK. So when can we get this two-entry system report.

The CHAIRMAN. And you do not remember whether you indicated whether you supported or differed with the specific recommendations?

Ms. STRUNK. I do not think that I did.

The CHAIRMAN. Did you agree or disagree with the two-entry recommendation?

Ms. STRUNK. Senator, I do not honestly remember what the specific two-entry recommendations are. If they are regarding the tailgate, I agree with those.

The CHAIRMAN. Had there been any complaints from the industry about those recommendations on the longwall?

Ms. STRUNK. To me?

The CHAIRMAN. Yes.

Ms. STRUNK. No, sir.

The CHAIRMAN. Do you have any experience in the mining industry?

Ms. STRUNK. Other than having been born and raised in a coal-mining town and growing up with a coal miner? Have I ever worked in a coal mine? No, Senator, I have not.

The CHAIRMAN. Well, would it be fair to say that your qualifications for the position are based on your experience in the House Education and Labor Committee over the past eight years where you had been responsible for mine safety and health?

Ms. STRUNK. I think that is fair to say as far as my knowledge of the mining aspect is concerned, but, Senator, I think also what is very important in my background is the compassion that I have for coal miners and my commitment to them.

The CHAIRMAN. That I think everyone on this Committee is impressed with and recognizes.

What other oversight activities concerning mine safety and health have you been involved in since the hearings of 1979 and 1980?

Ms. STRUNK. The only hearings that the Subcommittee has held since the 1979, 1980 hearings have been on various fatalities that have occurred in coal mines. There was a disaster in Kentucky, two disasters in Kentucky that dealt with shooting off the solid. There was the Tennessee, I believe it was the Grundy mine disaster. And then most recently I covered the two Wilberg hearings, two of three Wilberg hearings in the House.

The CHAIRMAN. Have you drafted any other legislation concerning mine safety since the Kramer bill in 1982?

Ms. STRUNK. I am not sure of the date, Senator, you know, whether the Kramer bill preceded; but after Bob LaGather left the agency, he came and met with Joe Gaydos, who is the Chairman, as you know, of the Health and Safety Subcommittee. He met with his chief staffer and myself and then came over and met with Senator Hatch's people about the need for some flexibility in the inspections for surface mines. He felt that he had problems in complying with the mandatory two inspections because of the intermittency of those mining operations.

So we then got together to draft some legislation that would allow for the Assistant Secretary to target, if you will, inspections on the surface. So I was involved in that effort, yes.

The CHAIRMAN. But specifically, you have not been involved in drafting any other legislation since the Kramer bill in 1982, have you?

Ms. STRUNK. Not since the Erlenborn legislation, no.

The CHAIRMAN. There was testimony at this Committee's oversight hearings—well, can you tell us what other mine safety and health issues which come under the agency's jurisdiction you have been involved in besides what we have discussed today?

Ms. STRUNK. You mean specific issues that may have been brought up?

The CHAIRMAN. Yes.

Ms. STRUNK. Like the two-entry system?

The CHAIRMAN. That you worked in on the Committee.

Ms. STRUNK. Well, the Committee has not—

The CHAIRMAN. I am trying to get some sense, a better feel.

Ms. STRUNK. One of the issues that my members have always been concerned about is the meeting of mandatory inspections, and whether or not MSHA was making its mandatory fours and twos. So that is an issue that I have been involved with.

The CHAIRMAN. Your testimony at this Committee's oversight hearings in March concerning safety regulations, according to the testimony, in 1982 the Mine Safety and Health Administration decided to upgrade the safety regulation as the Act mandated it should. Committees of the best experts of the agency were formed and were instructed to come up with regulations that would afford the best possible safety to miners.

According to the testimony, the Committees did just that and submitted them in 1983, and then we were told that Assistant Secretary Zegeer came in and began a rewriting process that involved watering down the regulations which would have resulted in less protection for the miners.

Were you involved in that rewriting process in any way?

Ms. STRUNK. No, sir.

The CHAIRMAN. Did you call or contact or consult with Ken Katen or any other person involved in the rewriting process?

Ms. STRUNK. Regarding the regulations?

The CHAIRMAN. Yes.

Ms. STRUNK. No, sir.

The CHAIRMAN. Were you aware that the rewriting process was going on?

Ms. STRUNK. Only from notices I would read in the Federal Register. If they issued an advanced notice or a pre-proposal draft or a proposal was published in the Federal Register, one of the things that I do as the staff person is keep track of those things.

The CHAIRMAN. So you say the only information that you had about the rewrite process was as a result of information you got in the Federal Register?

Ms. STRUNK. And then attending these hearings, Senator.

The CHAIRMAN. Do you agree that changes in safety regulations could mean the difference between life and death for the miners?

Ms. STRUNK. Yes.

The CHAIRMAN. And do you think that you are qualified to take over the management of the Mine Safety and Health Administration and to afford it the strong leadership it obviously needs?

Ms. STRUNK. I certainly do, Senator.

The CHAIRMAN. Do you have any managerial experience?

Ms. STRUNK. Have I managed 2,000 people, Senator?

The CHAIRMAN. No, that is not the question. Do you have any managerial experience?

Ms. STRUNK. Yes. As Congressman Jeffords indicated, as a congressional staffer you manage issues. You take a thought of a Member, and you develop it. You work it. You get interest, and you set the tone. You sell it. And that is all management, Senator, and I have a lot of that experience.

The CHAIRMAN. Well, it is probably a type of management, but there is a question about management skills generally, related to working with managing people and accountable in terms of running organizations, normally considered to be what we would think of as managerial skills rather than formulation of legislation, which are basically legislative skills.

Ms. STRUNK. Well, as you said, that is a form of management. But also within MSHA, as you stated, there are many good managers who should be relied upon and can be relied upon.

The CHAIRMAN. And you think the kinds of issues that we have talked about this morning qualifies you for that position?

Ms. STRUNK. Yes, Senator.

The CHAIRMAN. Do you think the positions that you have taken in the legislation are conducive to the safety and health of miners?

Ms. STRUNK. Senator, other than what I have told you today, I have not personally taken positions on those issues. Those are positions that the Members that I have worked for have taken. My responsibility as the staffer is to give the Members both sides of the issue. They then make the decisions and take the positions.

The CHAIRMAN. Did you ever tell Congressman Kramer that if he introduced that kind of legislation, effectively gutting those various safety requirements, that it would seriously damage enforcement of the Act?

Ms. STRUNK. Senator, Congressman Kramer and I had many discussions over the merits of some of the provisions that he was putting in his legislation.

The CHAIRMAN. But did you ever tell him that this would really gut the Act?

Ms. STRUNK. Were those my exact words?

The CHAIRMAN. Well, you give me your words. What did you tell him? We have not got executive privilege in the legislative branch around here yet. What can you tell us you told him?

Ms. STRUNK. Senator Kramer's decisions were made on his own assessment of what he needed to do politically, Senator.

The CHAIRMAN. I am sure of that. That is usually a heavy motivation around here for Members of the Congress and the Senate. But I am just interested in finding out whether you said to him, Look, I am glad to draft them, but I think that is going to undermine it, but I am glad to do it, Congressman; or whether you did not say anything; or whether you remember. These are very significant, undermining the whole kinds of questions in terms of safety. You have been involved in these issues. You know about them.

I am just interested whether you expressed an opinion.

Ms. STRUNK. I expressed opinions. There were times when in Senator Kramer's office there was a lot of discussion between myself, industry representatives and Congressman Kramer. Congressman Kramer knew that I did not support all of these provisions and went ahead with—and I went ahead with what I was instructed to do.

So yes, Senator, he knew that I did not support all of the provisions. He knew why I did not support the provisions. Did I sit there and tell a Congressman that what he was doing was going to gut the statute and was wrong? No, not in that strong a sense, I did not. But did he know that I did not believe that all of those positions should not be included in there? Yes.

The CHAIRMAN. Well, can you remember any time that you talked Congressman Kramer out of any positions that he was going to take that would have undermined the safety requirements?

Ms. STRUNK. Yes. There were some issues on judicial review, I believe, where we were able to convince him that that was not the appropriate—

The CHAIRMAN. What were those?

Ms. STRUNK. In all honesty, I do not specifically remember. I think it had to do with cross-examination or the right of cross-examination. I am not sure.

But, you know, Senator, the strongest position that I had was in convincing him not to put in the transfer of the stone, sand, and gravel issue. I believe that was probably Section 1 of the legislation.

The CHAIRMAN. It had been withdrawn by then, had it not?

Ms. STRUNK. Well, Senator, that was a rider on the appropriations legislation.

The CHAIRMAN. Yes, I understand that.

Ms. STRUNK. This was a legislative initiative.

The CHAIRMAN. Well, I must say that trying to review your own experience in the Committee and the work that you have done, I think all of us are mindful that people, particularly those who work for Congressmen and Senators, are going to do things which perhaps they have some reservations about. But it does seem the work that you have had has been focused in the direction of effectively undermining the Act rather than strengthening it, and undermining the safety and the health of the miners rather than affording them more protection. I think your statements today in

support of more vigorous enforcement basically do not conform to positions taken by the Members you prepared for hearings or the legislation you drafted. I think the real question is which is the real Dorothy Strunk: the one which is dedicated to mine safety and health or the one who responds to the wishes of the American mining Congress. The real question is whether Members here, I think, are willing to take that chance when it is going to really affect the decision, in a very real way, going to be affecting the lives of tens of thousands of miners.

That is the dilemma that we are put in.

I want to thank you very much for your appearance here. If there are other members who do have questions, we will submit them and leave the record open. If there is other information you want to submit, we will make that a part of the record, too.

Ms. STRUNK. Senator, before I leave, I would like to take a moment and introduce to you my husband.

The CHAIRMAN. Fine.

Ms. STRUNK. And my mother, and my father.

The CHAIRMAN. I apologize. We should have recognized them earlier. Is your mother here, too?

Ms. STRUNK. Yes. That is my mother, my father and my husband, and I brought my bituminous representatives also from southeastern Pennsylvania.

The CHAIRMAN. Very fine. Well, we are glad to have you here. We appreciate your presence.

Thank you very much.

Ms. STRUNK. Thank you.

The CHAIRMAN. Now I would like to welcome Richard Trumka, President of the United Mine Workers of America, who has asked to speak in opposition to the nomination.

Mr. Trumka, we are glad to have you back before our Committee. We again thank you for your excellent help in terms of our plant notification legislation which we were able to get accepted on the trade bill. Your involvement in that at a very critical time I think is going to make an enormous difference to the employability of millions of Americans. I am very hopeful that we will get that into law. We are very mindful of your good work in that area, as well as in other areas, and we look forward to your testimony here today. You are very welcome.

STATEMENT OF RICHARD L. TRUMKA, PRESIDENT, UNITED MINE WORKERS OF AMERICA, WASHINGTON, DC

Mr. TRUMKA. Thank you very much, Mr. Chairman. I genuinely appreciate the opportunity to speak here to you on this very important matter before the Committee.

I would also thank you for the efforts that you have made in mine health and safety and for workers' rights over the years, particularly in the MSHA area.

Before I get into, I guess, the formal presentation of my testimony, I feel compelled to clean up, or at least state for the record what I know to be the facts with regard to how we got to be where we are today. I think Secretary Brock perhaps was misinformed. I

have known Secretary Brock for quite some time, and I think his integrity is beyond question.

However, in this specific instance, I believe he was misinformed, and so for the record I would like to clarify how we got to be here, where we are, and how we arrived at our position to oppose Ms. Strunk for this position.

On January 7, 1987, Mr. Chairman, a meeting was held in my office, and it was attended by Mr. Dennis Whitfield, Ms. Gerry Eckhardt, and a few other DOL officials. During that meeting, Mr. Whitfield requested that we submit recommendations for the position of Assistant Secretary of Labor for Mine Health and Safety. He gave us roughly one week to submit those nominations.

Immediately after the meeting, I made initial contact with the person that I have a great deal of respect for and who I thought would make a tremendous Assistant Secretary. That individual's name is Mr. Douglas Fraser, former President of the United Auto Workers. Mr. Fraser indicated to me that he was very, very happy with all the other things he was then and is now involved in, and thus he declined.

Right after that, we went to another individual. On January 16th, we contacted another individual by the name of Al Lawson. Mr. Lawson, as you may well know, was a Commissioner of the Mine Health and Safety Review Commission of many years's standing, and he said that he needed a few days to think it over. He got back to us and also declined for his own personal reasons.

On January 16, 1987, at about 2:00 p.m., Joe Main—who is the director of my health and safety division—called Dennis Whitfield to advise him that it was going to take us a couple days longer in order for us to submit and to finalize our recommendations. Gerry Eckhardt took the call instead of Mr. Whitfield; I think Mr. Whitfield was out at that time. She said she was supposed to have a name one week from our previous meeting, which would have been Wednesday, January 14th. It was our understanding that we were going to be given nine full days, which would have taken us to the 16th of January.

Joe advised her that we understood that we were supposed to get back to her by that Friday. He explained that we were waiting for a response and would have our recommendation by the following Tuesday. She insisted that it be in by the following Monday. Monday, however, was a holiday. She then said OK, you can have until Tuesday. She requested that we have the name in by noon on January 20, 1987, and Joe advised her that we would do the best that we could.

Mr. Lawson called that morning, January 20th, at 9:30 a.m., and he declined our invitation to submit his name. At 9:35 a.m. on January 20th, we called John Calhoun Wells, who was formerly the Kentucky Secretary of Labor, a well-qualified individual. He called back at about 10:10 a.m., and basically said he wanted some time to think about it. He called back at 4:10 p.m. and declined the nomination. That was on January 20th.

At 4:15 p.m., Joe Main called Gerry Eckhardt and advised her that Danny Davidson was our recommendation and gave her background information on him and advised him that a letter would follow. She said that it was probably too late since it was past

noon. Joe advised her that we had worked diligently and had hoped that a few hours would not prevent our candidate from being considered.

Shortly thereafter, we received a letter from Dennis Whitfield saying that, yes, even though we were a few hours late, it would, in fact, be considered. I was a little upset about Secretary Brock's characterization of Danny Davidson. He tried to pass him off as a local union president who had never been involved in mine health and safety before. Danny Davidson, Mr. Chairman, whom we submitted in 1983 as well, was recommended for the position of Assistant Secretary of Labor by Senator Lugar from Indiana, a copy of which I will read, to then Secretary Donovan at that time.

It says, "Dear Ray, it is my understanding that Mr. Danny C. Davidson is being considered to be Assistant Secretary for Mine Health and Safety. Mr. Davidson would be an excellent choice for this position."

He goes on to talk about his personal contacts in Mine Health and Safety, and he urges him to consider favorably Danny Davidson for the nomination for that position.

We also had at that time the recommendation of a Mr. Sam Speck, who was the Republican Whip in the Ohio Senate and former Chairman of the Ohio Senate Energy Committee, who was very familiar with Danny Davidson. Just for the record, because I have such tremendous respect for Danny, and I think he was done a disservice, I would like to give a full accounting of his resume.

In fact, Senator, he was vice president of UMWA Local 1640 in 1974. Then he became chairman of the Safety Committee at the same local for five years, from 1971 to 1975. He became President of that local in 1975. He represented the United Mine Workers on the UMWA Committee for contract negotiations in 1977 and 1978. He served on the Commission, the Governor's Commission, to revise Virginia State mining laws in 1978. He was appointed adviser to President Carter's Commission on Coal from 1978 to 1980. He served on the Executive Committee on Mining of the National Safety Council in 1981 and 1982. He was an adviser to the Committee on Underground Coal Mine Safety for the National Research Council, 1981 and 1982. He was on the National Roof Control Program from 1983 to present. He was appointed to the Virginia Governor's Advisory Committee in 1984 and 1985. He was on the UMWA-BCOA Joint Industry Health and Safety Committee from 1980 to present. He was on the Joint Industry Training Committee from 1980 to 1985. He was appointed by the Governor of West Virginia to the Mine Health and Safety Technical Review Committee in 1986 to present. He also serves on the Planning Committee for the Virginia Polytechnical Institute. He was a U.S. Marine in 1960 to 1968, served a tour of duty in Vietnam. His duties included a squad leader in BITS. He was a fire team leader in—

The CHAIRMAN. Mr. Trumka, we want to make sure we have all that in the record, but we will take your word for it. I think what would be useful is to have that chronology as part of the record, and then I think it would be useful to send that over to the Secretary for his information. Because I do think it is an impressive documentation of your own involvement in that and the union, so I

think it is important for us to have it and to get it over to Secretary Brock just as a point of information.

But let us put all of that, if we could, in the record, and be on with your good testimony.

Mr. TRUMKA. Thank you, Senator. You understand that Danny served us six years as our Deputy Director, I have a personal liking for him. I know his capabilities, and I took affront to the fact that he was sloughed off in such a light-handed manner.

On April 21st, Ms. Strunk was nominated. Prior to that time, we had never been notified, the United Mine Workers had never been notified either officially or unofficially on who, in fact, would be the nominees from the Administration; nor, in fact, who was being considered for the job.

On the 27th or the 28th of April was the first time I was notified. I was notified by a telephone call that Ms. Strunk was, in fact, being considered. On April 30th, two of my staff people met with Ms. Strunk, and on May 11 the vice president of the union and myself met with Ms. Strunk for two hours.

We did not formulate any position on what we would do with her nomination until that point. I wish Senator Hatch was here. I am sure I will get a chance to talk to him. He has played a tremendous role in helping to clean up MSHA. I wish he were here to hear that.

Senator, we did not take a position until that time. I thought we owed it to the miners of this country, and to Ms. Strunk, frankly, to talk to her personally to find out if, in fact, we believed she had the capabilities. After that two-hour meeting, we were convinced that the learning curve that she faced with regard to heading an agency that was troubled was just far, far too great.

A few days after that, roughly two weeks were spent in the process of trying to go through and determine what we would do. On May 26th we notified Ms. Strunk that we would oppose her nomination, and on the 28th of May we officially opposed her nomination.

I would first like to address the importance of the position of Assistant Secretary of Labor for Mine Health and Safety. I think it carries with it the responsibility of making critical judgments that affect people's lives. Those judgments include determining the rules mine operators must abide by to protect the Nation's coal miners from death, injury and from illness. That position carries with it the responsibility of assuring that the laws are effectively enforced. And during times when the agency is stable, it is a tremendously demanding job. But these are not—and I would emphasize not—stable times for the agency.

In March of this year, this Senate Committee held four oversight hearings on MSHA, and those oversight hearings revealed an agency in chaos. At those oversight hearings, the public was exposed to an agency that was completely derailed, resulting from ineffective and misguided leadership. Testimony before this Committee revealed that agency officials had acted to shut off criminal prosecutions under Section 110 of the Mine Act and, to accomplish this task, MSHA dismantled its only effective special investigation unit, which was located in Virginia.

The former Assistant Secretary of Labor himself, upset by the agency's pursuit of criminal prosecution in one case in Illinois, initiated procedures to dismantle such special investigations on the national level. In testimony, examples were cited of MSHA's actions that contributed to mine accidents. This information was reported to high level agency officials, but instead of taking corrective actions, top MSHA management swept those reports under the rug.

Former and current MSHA personnel testified that MSHA inspectors and special investigators were removed from inspections after they cited coal operators for violations of Federal law.

Testimony from those same witnesses uncovered agency approval of faulty mine plans and attempts to conceal those approvals after a mining death. The hearings revealed efforts by top MSHA officials to weaken Federal safety standards and eliminate crucial protections for miners contained in recommendations prepared by the agency's own safety experts.

The Committee heard two days of testimony describing abuses committed by an agency that was out of control, and the agency, as you are well aware, Mr. Chairman, drew sharp bipartisan criticism. At the hearings, Senator Hatch remarked on the alarming number of examples of mismanagement, misconduct, and mistakes by MSHA officials. He called the agency's regulatory process a "bureaucratic nightmare." Senator Metzenbaum termed the agency's performance "shameful." In April, this Committee held hearings on the Wilberg mine disaster which further revealed MSHA's failures.

Mr. Chairman, in the best of times, MSHA needs sound leadership. But this is an agency in the worst of times, and it needs the best leadership there is to offer. It is not the place nor the time for an appointee to go through an exhaustive learning process.

I believe that the challenges facing MSHA do not even stop there. As this Committee is aware, MSHA is currently engaged in the most comprehensive review of Federal mine safety and health regulations undertaken since the passage of the 1969 Act. This revision involves most of the underground coal mine safety standards, such as the ventilation, roof control, electrical, haulage, and explosives standards. The regulatory review also affects surface coal mine standards, metal and non-metal safety standards, and procedural standards.

There are literally hundreds and hundreds of standards to be reviewed and put into final form. Judgments must be made in each case to assure that miners are protected. With this aggressive and lengthy regulatory revision under way, now is surely not the time to train an inexperienced person for the job.

In addition, critical routine administrative decisions will have to be made to determine how many inspectors will be needed to inspect the mines effectively and where they will be located. Decisions facing the appointee also will include the determination of whether agency officials are adequately approving mining plans and whether additional support staff is needed, as well as judgment affecting a great number of other administrative activities.

Since the turn of the century, over 100,000 coal miners have been killed in mining accidents, nearly 800 in this decade alone. Added

to that toll are tens of thousands who have been injured or who have suffered occupational illness. One thing we clearly understand is that the decisions made by the head of the MSHA have an absolute direct impact every working day on the lives of more than one-quarter of a million coal, metal and non-metal miners. In the mining industry, bad decisions can mean injury or death and catastrophe.

My job as President of the United Mine Workers is to represent coal miners whose lives are threatened every day by hazards that are far too numerous to mention and list here. My job is to do whatever it takes to assure that they have the best protection possible against those hazards. I have experienced many painful moments when the system failed to protect them. I have had to explain to miners' families why their father, their husband, their mother, or wife had died in a mining accident. That, I assure you, is not an easy task. I can assure you that I take the matter of health and safety of our members, and the nomination before this Committee, with the absolute utmost seriousness.

When our organization was advised of the Reagan Administration's nominee for the Assistant Secretary of Labor, we examined the nominee's background, and we believe we found the candidate had no mining experience. I also found no real administrative background, let alone the invaluable on-the-job training that would qualify a person to manage an agency as large and as critical as MSHA.

As I mentioned earlier, to get a better understanding of Ms. Strunk's capabilities, knowledge and overall qualifications, I met personally with her. Following that meeting, I was convinced that this individual was not prepared to handle the task of heading up the Mine Safety and Health Administration. In my estimation, the learning curve is far too great for her to master in the short time allowed. I do not doubt the candidate's sincerity to attempt to do the job. However, an attempt is a luxury that we cannot afford when thousands of lives are at stake. This nominee simply does not possess the qualities and experience that could lead this troubled agency out of its days of darkness while being burdened with such a heavy work load.

On the basis of a comprehensive review of this candidate, I am convinced that what this agency needs during this critical time in its history is not a beginner; it is a proven leader. The health and safety of America's coal miners must come before any other factor in consideration of this appointment.

Mr. Chairman, based on all the foregoing, I must urge that this Committee reject the nomination of Dorothy Strunk as Assistant Secretary of Labor for Mine Safety and Health.

[The prepared statement of Mr. Trumka follows:]

Testimony of
Richard L. Trumka, President
United Mine Workers of America

Concerning the Nomination of Dorothy Strunk for
Assistant Secretary of Labor for Mine Safety & Health
Before the Committee on Labor and Human Resources
United States Senate

July 29, 1987

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE. I APPRECIATE THE OPPORTUNITY TO SPEAK HERE TODAY ON THIS VERY IMPORTANT MATTER BEFORE THIS COMMITTEE, THAT IS THE REAGAN ADMINISTRATION'S NOMINEE FOR THE POSITION OF THE ASSISTANT SECRETARY OF LABOR FOR MINE SAFETY AND HEALTH.

AS THE PRESIDENT OF THE UNITED MINE WORKERS OF AMERICA, I REPRESENT COAL MINERS ACROSS THE NATION. OUR MEMBERS ARE FROM VARIOUS WALKS OF LIFE, THEY ARE YOUNG AND OLD, THEY ARE MEN AND WOMEN. ONE THING THEY HAVE IN COMMON IS THAT THEY WORK IN THE NATION'S MOST DANGEROUS INDUSTRY, AND THEY WILL BE DIRECTLY AFFECTED BY THE DECISION THAT THIS COMMITTEE MAKES ON THE NOMINATION FOR ASSISTANT SECRETARY OF LABOR FOR MINE SAFETY AND HEALTH.

I WOULD LIKE FIRST TO ADDRESS THE IMPORTANCE OF THE POSITION OF ASSISTANT SECRETARY OF LABOR FOR MINE SAFETY AND HEALTH. IT CARRIES WITH IT THE RESPONSIBILITY OF MAKING CRITICAL JUDGMENTS

THAT AFFECT PEOPLE'S LIVES. THOSE JUDGMENTS INCLUDE DETERMINING THE RULES MINE OPERATORS MUST ABIDE BY TO PROTECT THE NATION'S COAL MINERS FROM DEATH, INJURY AND ILLNESS. THAT POSITION CARRIES WITH IT THE RESPONSIBILITY OF ASSURING THAT THE LAWS ARE EFFECTIVELY ENFORCED. DURING TIMES WHEN THE AGENCY IS STABLE, THIS IS A TREMENDOUSLY DEMANDING JOB.

BUT THESE ARE NOT STABLE TIMES FOR THE AGENCY. IN MARCH OF THIS YEAR, THIS SENATE COMMITTEE HELD FULL OVERSIGHT HEARINGS ON MSHA, WHICH REVEALED AN AGENCY IN CHAOS. AT THESE OVERSIGHT HEARINGS, THE PUBLIC WAS EXPOSED TO AN AGENCY THAT WAS COMPLETELY DERAILED, RESULTING FROM INEFFECTIVE AND MISGUIDED LEADERSHIP. TESTIMONY BEFORE THIS COMMITTEE REVEALED THAT AGENCY OFFICIALS HAD ACTED TO SHUT OFF CRIMINAL PROSECUTIONS UNDER SECTION 110 OF THE MINE ACT. TO ACCOMPLISH THIS TASK,

MSHA DISMANTLED ITS ONLY EFFECTIVE SPECIAL INVESTIGATION UNIT, WHICH WAS LOCATED IN VIRGINIA. THE FORMER ASSISTANT SECRETARY OF LABOR HIMSELF, UPSET BY THE AGENCY'S PURSUIT OF CRIMINAL PROSECUTION IN ONE CASE IN ILLINOIS, INITIATED PROCEDURES TO DISMANTLE SUCH SPECIAL INVESTIGATIONS ON THE NATIONAL LEVEL.

IN TESTIMONY, EXAMPLES WERE CITED OF MSHA ACTIONS THAT CONTRIBUTED TO MINE ACCIDENTS. THIS INFORMATION WAS REPORTED TO HIGH-LEVEL AGENCY OFFICIALS, BUT INSTEAD OF TAKING CORRECTIVE ACTIONS, TOP MSHA MANAGEMENT SWEEPED THOSE REPORTS UNDER THE RUG. FORMER AND CURRENT MSHA PERSONNEL TESTIFIED THAT MSHA INSPECTORS AND SPECIAL INVESTIGATORS WERE REMOVED FROM INSPECTIONS AFTER THEY CITED COAL OPERATORS FOR VIOLATIONS OF FEDERAL LAW. TESTIMONY FROM THOSE SAME WITNESSES UNCOVERED AGENCY APPROVAL OF FAULTY MINE PLANS AND ATTEMPTS TO CONCEAL THOSE APPROVALS AFTER MINING DEATHS. THE HEARINGS REVEALED EFFORTS BY TOP MSHA OFFICIALS TO WEAKEN FEDERAL SAFETY STANDARDS AND ELIMINATE CRUCIAL PROTECTIONS FOR MINERS CONTAINED IN

RECOMMENDATIONS PREPARED BY THE AGENCY'S OWN SAFETY EXPERTS.

THIS COMMITTEE HEARD TWO DAYS OF RELENTLESS TESTIMONY DESCRIBING ABUSES COMMITTED BY AN AGENCY OUT OF CONTROL. THE AGENCY DREW SHARP BI-PARTISAN CRITICISM. AT THE HEARINGS, SENATOR HATCH REMARKED ON THE ALARMING NUMBER OF EXAMPLES OF MISMANAGEMENT, MISCONDUCT AND MISTAKES BY MSHA OFFICIALS. HE CALLED THE AGENCY'S REGULATORY PROCESS A "BUREAUCRATIC NIGHTMARE". SENATOR METZENBAUM TERMED THE AGENCY'S PERFORMANCE "SHAMEFUL". IN APRIL, THIS COMMITTEE HELD HEARINGS ON THE WILBERG MINE DISASTER WHICH FURTHER REVEALED MSHA'S FAILURES. IN THE BEST OF TIMES, MSHA NEEDS SOUND LEADERSHIP. BUT THIS IS AN AGENCY IN THE WORST OF TIMES -- AND IT NEEDS THE BEST LEADERSHIP THERE IS TO OFFER. IT IS NOT THE PLACE NOR THE TIME FOR AN APPOINTEE TO GO THROUGH AN EXHAUSTIVE LEARNING PROCESS.

THE CHALLENGES FACING MSHA DO NOT STOP THERE. AS THIS COMMITTEE IS AWARE, MSHA IS CURRENTLY ENGAGED IN THE MOST

COMPREHENSIVE REVIEW OF FEDERAL MINE SAFETY AND HEALTH REGULATIONS UNDERTAKEN SINCE THE PASSAGE OF THE 1969 ACT. THIS REVISION INVOLVES MOST OF THE UNDERGROUND COAL MINE SAFETY STANDARDS, SUCH AS THE VENTILATION, ROOF CONTROL, ELECTRICAL, HAULAGE, AND EXPLOSIVES STANDARDS. THE REGULATORY REVIEW ALSO AFFECTS SURFACE COAL MINE STANDARDS, METAL AND NON-METAL SAFETY STANDARDS, AND PROCEDURAL STANDARDS.

THERE ARE LITERALLY HUNDREDS AND HUNDREDS OF STANDARDS TO BE REVIEWED AND PUT INTO FINAL FORM. JUDGMENTS MUST BE MADE IN EACH CASE TO ASSURE THAT MINERS ARE PROTECTED. WITH THIS AGGRESSIVE AND LENGTHY REGULATORY REVISION UNDERWAY, NOW IS SURELY NOT THE TIME TO TRAIN AN INEXPERIENCED PERSON FOR THE JOB.

IN ADDITION, CRITICAL ROUTINE ADMINISTRATIVE DECISIONS WILL HAVE TO BE MADE TO DETERMINE HOW MANY MINE INSPECTORS WILL BE

NEEDED TO INSPECT THE MINES EFFECTIVELY, AND WHERE THEY WILL BE LOCATED. DECISION FACING THE APPOINTEE ALSO WILL INCLUDE THE DETERMINATION OF WHETHER AGENCY OFFICIALS ARE ADEQUATELY APPROVING MINING PLANS, AND WHETHER ADDITIONAL SUPPORT STAFF IS NEEDED, AS WELL AS JUDGMENTS AFFECTING A GREAT NUMBER OF OTHER ADMINISTRATIVE ACTIVITIES.

SINCE THE TURN OF THE CENTURY, OVER 100,000 COAL MINERS HAVE BEEN KILLED IN MINING ACCIDENTS -- NEARLY 800 IN THIS DECADE ALONE. ADDED TO THAT TOLL ARE TENS OF THOUSANDS WHO HAVE BEEN INJURED OR HAVE SUFFERED OCCUPATIONAL ILLNESS. ONE THING WE CLEARLY UNDERSTAND IS THAT THE DECISIONS MADE BY THE HEAD OF THE MSHA HAVE A DIRECT IMPACT EVERY WORKING DAY ON THE LIVES OF MORE THAN A QUARTER OF A MILLION COAL, METAL AND NON-METAL MINERS. IN THE MINING INDUSTRY, BAD DECISIONS CAN MEAN INJURY OR DEATH TO THESE WORKERS.

MY JOB AS THE PRESIDENT OF THE UNITED MINE WORKERS IS TO REPRESENT COAL MINERS WHOSE LIVES ARE THREATENED EVERY DAY BY HAZARDS TOO NUMEROUS TO MENTION. MY JOB IS TO DO WHATEVER IS NECESSARY TO ASSURE THEY HAVE THE BEST PROTECTION POSSIBLE AGAINST THOSE HAZARDS. I HAVE EXPERIENCED MANY PAINFUL MOMENTS WHEN THE SYSTEM FAILED TO PROTECT THEM. I HAVE HAD TO EXPLAIN TO MINERS' FAMILIES WHY THEIR FATHER, HUSBAND, MOTHER OR WIFE HAD DIED IN A MINING ACCIDENT. IT IS NOT AN EASY TASK. I CAN ASSURE YOU I TAKE BOTH THE MATTER OF HEALTH AND SAFETY OF OUR MEMBERS, AND THE NOMINATION BEFORE THIS COMMITTEE, WITH THE UTMOST SERIOUSNESS.

WHEN OUR ORGANIZATION WAS ADVISED OF THE REAGAN ADMINISTRATION NOMINEE FOR THE ASSISTANT SECRETARY OF LABOR, I EXAMINED THE NOMINEE'S BACKGROUND AND FOUND THE CANDIDATE HAD NO MINING EXPERIENCE. I ALSO FOUND NO REAL ADMINISTRATIVE BACKGROUND, LET ALONE THE INVALUABLE ON-THE-JOB TRAINING THAT WOULD QUALIFY A PERSON TO MANAGE AN AGENCY AS LARGE AND AS CRITICAL AS MSHA.

TO GET A BETTER UNDERSTANDING OF MS. STRUNK'S CAPABILITIES, KNOWLEDGE AND OVERALL QUALIFICATIONS, I MET PERSONALLY WITH HER. FOLLOWING THAT MEETING, I WAS CONVINCED THAT THIS INDIVIDUAL WAS NOT PREPARED TO HANDLE THE TASK OF HEADING UP THE MINE SAFETY AND HEALTH ADMINISTRATION. IN MY ESTIMATION, THE LEARNING CURVE IS FAR TOO GREAT FOR HER TO MASTER IN THE SHORT TIME ALLOWED. I DON'T DOUBT THE CANDIDATE'S SINCERITY TO ATTEMPT TO DO THE JOB. HOWEVER, THIS IS A LUXURY WE CANNOT AFFORD WHEN THOUSANDS OF LIVES ARE AT STAKE. THIS NOMINEE SIMPLY DOES NOT POSSESS THE QUALITIES AND EXPERIENCE THAT COULD LEAD THIS TROUBLED AGENCY OUT OF ITS DAYS OF DARKNESS WHILE BURDENED WITH SUCH A HEAVY LOAD.

ON THE BASIS OF A COMPREHENSIVE REVIEW OF THIS CANDIDATE, I AM CONVINCED THAT WHAT THIS AGENCY NEEDS DURING THIS CRITICAL TIME IN ITS HISTORY IS NOT A BEGINNER, BUT A PROVEN LEADER.

THE HEALTH AND SAFETY OF AMERICA'S COAL MINERS MUST COME BEFORE ANY OTHER FACTOR IN CONSIDERATION OF THIS APPOINTMENT. I THEREFORE URGE THIS COMMITTEE TO REJECT THE NOMINATION OF DOROTHY STRUNK AS ASSISTANT SECRETARY OF LABOR FOR MINE SAFETY AND HEALTH.

The CHAIRMAN. You have spelled out, Mr. Trumka, very clearly the reasons for your reservation and your opposition to the nominee. Is this the first nomination of an Assistant Secretary of Labor for Mine Safety and Health that the United Mine Workers of America have opposed since MSHA was created?

Mr. TRUMKA. We have looked through our history, Mr. Chairman, since the 1969 Act and the first appointment, and this is the first time that the United Mine Workers has opposed a nominee for the position of Assistant Secretary of Health and Safety. It was a step that we took with great seriousness.

The CHAIRMAN. Well, I would think that the record would certainly indicate and support that, and I think that adds additional weight to the testimony. I think you have many responsibilities, I am sure, in terms of the various collective bargaining agreements and looking after wages and pensions and health care matters, hours, and working conditions. But it seems to me that perhaps your most significant responsibility is to ensure the people are going to be well qualified that are going to effectively hold the reins of the enforcement of safety and health standards of MSHA. I cannot think of a responsibility which is greater as the head of those workers.

I mean, maybe there is some, but I would think that this is one which clearly you recognize as being of overriding importance. I know that just from my own personal contacts with you. I think that that is a very important factor in terms of our consideration of your testimony.

I want to thank you very much. We will be keeping in touch with you as this process moves ahead, and we are very grateful for your testimony, now as in other times.

Mr. TRUMKA. Thank you, Mr. Chairman. We thank you for your leadership on this issue.

The CHAIRMAN. Our next panel of witnesses are representatives of the Coal Employment Project, Association of Women Coal Miners, Mrs. Betty Jean Hall, the Executive Director of the Project to women coal miners; Ms. Barbara Regan and Ms. Norma Jefferson; and J. Davitt McAteer, the Director of the Occupational Safety and Health Law Center who represents the project. We will ask if they would be good enough to come forward.

We will start with Betty Jean Hall, I believe.

STATEMENT OF BETTY JEAN HALL, EXECUTIVE DIRECTOR, COAL EMPLOYMENT PROJECT, DUMFRIES, VA; BARBARA REGAN AND NORMA JEFFERSON, COAL MINERS, WESTOVER, WV; AND J. DAVITT McATEER, DIRECTOR, OCCUPATIONAL SAFETY AND HEALTH LAW CENTER, WASHINGTON, DC, REPRESENTING THE COAL EMPLOYMENT PROJECT

Ms. HALL. Good morning, Senator Kennedy. My name is Betty Jean Hall, and I am director of the Coal Employment Project, a nonprofit organization which was founded by women in the Appalachian coal fields in 1977 to help women gain and keep jobs in the coal mining industry.

We work with women miners, metal and non-metal, surface and underground, union and non-union from virtually every coal field

State stretching from Utah to Pennsylvania, Wyoming, Texas to Alabama.

I would certainly be happier if we were here today to support the nomination of a woman who happened to be a qualified candidate for this job. In fact, I find myself and our organization in a position very unusual for us. Unfortunately, we have not been presented with that opportunity to support a woman we feel is a qualified candidate. Further, if Richard Trumka unfairly tried to hold a woman back who was qualified for this position, we would not hesitate to take him on.

However, we are not presented with that problem. Richard Trumka has one of the most progressive attitudes toward women of any labor leader or politician in this country today. Indeed, I find it ironic that Senator Hatch, of all people, would dare imply that opposition to this position is sexist.

Although this has been a most difficult decision for myself and the women miners we work with, we must come here today to oppose the nomination of Dorothy Strunk as director of MSHA.

Women miners are concerned that jobs in the mining industry be available to men and women of all races, but they are equally concerned about safety in the mines. At the recent 9th National Conference of Women Miners which was held in Birmingham, Alabama, June 26th through 28th, and which brought together participants from 19 States, England, Nova Scotia and South Africa, a series of resolutions were unanimously adopted, all of which instructed us to oppose the nomination of Dorothy L. Strunk to be the next director of MSHA.

With that background, I would like to take this opportunity to introduce you to two women miners who also happen to be active members of their safety committees and active members of our organization, Barbara (Bobbie) Regan and Norma Jefferson, both of whom are from northern West Virginia.

[The prepared statement of Ms. Hall follows:]

TESTIMONY OF BETTY JEAN HALL*

Good morning, Senator Kennedy and members of the Committee.

My name is Betty Jean Hall and I am director of the Coal Employment Project, a nonprofit organization which was founded by women in the Appalachian coalfields in 1977 to help women gain and keep jobs in the coalmining industry.

Although this has been a most difficult decision for myself and the women coalminers we work with, we must come here today to oppose the nomination of Dorothy Strunk as director of MSHA.

Although women miners are concerned that jobs in the mining industry be available to men and women of all races, we are equally concerned about safety in the mines. Therefore, I would like to take this opportunity to introduce you to two women miners, who also happen to be active members of their safety committees and active members of our organization: Barbara (Bobbie) Regan and Norma Jefferson, both of West Virginia.

*/ Betty Jean Hall is founder, executive director and general counsel of the Coal Employment Project, a nonprofit organization which was founded in 1977 by women from the Appalachian coalfields to help women gain and keep jobs in the coal industry.

Senator Kennedy and distinguished members of the Senate Labor Committee:

I want to thank you for the opportunity to express my concern over the proposed nomination of Ms. Dorothy Strunk to head the Mine Safety and Health Administration. Also, I want to convey the same concern and dismay that was expressed by unanimous vote of women miners at our recent annual conference held in Birmingham, Alabama.

Senators, I want you to understand one thing very clearly. I am not opposed to a woman being afforded the opportunity to address the position of challenge and prestige. — After all, I consider myself to be among such women, having been among the earliest women to come into an all-male industry almost 12 years ago. The question is not one of whether a woman should assume this position, but if this woman should.

Consider if you will the fact that there are many women who because of an economic slump in this industry are out of work but could bring to this job all the years of underground mining experience they have already acquired. Many of these women have also enhanced their desirability by successfully passing their mine foreman's test and getting their mine foreman's papers. Does Ms. Strunk have this hands-on experience?

Nomination of Dorothy Strunk

Underground mining is not an easy job, and its difficulties tend to produce a very strong bond among those whose lot it is to labor under these difficult conditions. There develops an interdependence as strong as the one between parent and child. Whether you are able to perform your job safely depends not only upon you but your fellow workers as well. This bond must extend to those whose job it is to make the laws and regulations that protect the lives and limbs of the men and women who produce this commodity. We depend upon them for the safety of our livelihood.

On September 9, 1979, I suffered an industrial accident losing one finger and breaking both my forearm bones while roof bolting. During my convalescence I spent many anguished moments deciding whether or not to return to such a difficult and dangerous job. Among coal miners there is a saying, "For every rule and regulation in the Act, a man had to be severely injured or die." That is a grim testimony indeed and today with many colleges and universities offering both ground and underground training in industrial safety, would it be too much to ask committee members to ascertain if the nominee has any such credentials?

Nomination of Dorothy Strunk

Safety should not be a political game. The purpose of the federal law is to protect the workers. We are the most highly qualified miners in the world and the quality of our production is high. We have earned the privilege of demanding that those who administer the Mine Safety and Health Administration be the most qualified and experienced there are. For several years as a member of my local union safety committee and now as a "walkaround," I have observed federal inspectors as they perform their duties. Over the course of the last few years I have noticed a change in the rigor with which these inspections have been conducted and even demoralization among some inspectors.

There is no such thing as Republican or Democratic safety -- only safety. I think I speak for all women miners when I convey to the Committee we demand the best darn administration possible. Will Ms. Strunk fill the bill? Or will Mine Safety and Health Administration sink into more confusion? What will happen in an emergency or, God forbid, a mine disaster?

Finally, I would like to convey the opinion of the women miners who gathered at Birmingham this June: we feel Richard Trumka and the United Mine Workers of America in opposing this nomination are not opposing a woman, but rather an unqualified woman.

Ms. REGAN. Senator Kennedy, my name is Barbara Regan, and I would like to thank you for this opportunity to appear before this Committee.

I am an underground coal miner from Westover, West Virginia. I work for Peabody's Federal No. 2 Mine where I serve as a mine committeeman and financial secretary of my local union. I am also vice chair of the Coal Employment Project's Board of Directors.

I want to thank you for this opportunity to express my concern over the proposed nomination of Ms. Strunk to head the Mine Safety and Health Administration. Also, I want to convey the same concern and dismay that was expressed by unanimous vote of the women miners at the 9th National Congress of Women Miners held in Birmingham.

Senator, I want you to understand one thing very clearly. I am not opposed to a woman being afforded the opportunity to address a position of challenge and prestige. After all, I consider myself to be among such women, having been among the earliest women to come into the all-male industry almost 12 years ago.

The question is not one of whether a woman should assume this position, but if this woman should.

Consider, if you will, the fact that there are many women who, because of an economic slump in this industry, are out of work but could bring to this job all the years of underground mining experience they have already acquired. Many of these women have also enhanced their desirability by successfully passing their mine foreman's test and getting their mine foreman's papers. Does Ms. Strunk have this hands-on experience?

Underground mining is not an easy job, and its difficulties tend to produce a very strong bond among those whose lot it is to labor under these difficult conditions. There develops an inter-dependence as strong as the one between parent and child. Whether you are able to perform your job safely depends not only on you, but on your fellow workers as well. This bond must extend to those whose jobs it is to make the laws and regulations that protect the lives and limbs of the men and women who produce this commodity. We depend on them for the safety of our livelihood.

As a working miner, I appreciate the importance of experience in the mines for everyone who is going to be responsible for our health and safety.

On September 9, 1979, I suffered an industrial accident, losing one finger and breaking both my forearm bones while roof bolting. During my convalescence, I spent many anguished moments deciding whether or not to return to such a difficult and dangerous job. Among coal miners there is a saying, "For every rule and regulation in the Act, a man had to be severely injured or die." That is grim testimony, indeed, and today with many colleges and universities offering both graduate and undergraduate training in industrial safety, would it be too much to ask the Committee members to ascertain if the nominee has any such credentials?

I would like to digress from my prepared statement for a second here, Senator. I believe Senator Hatch made it appear as if we were asking that we were not accepting Ms. Strunk because she did not have the privilege of an education. I am stating here that this industry, this occupation, requires very special knowledge. I am not

talking about an education in liberal arts, and I think that is what I am referring to in my statement here. I certainly would never try to hold back someone who had the determination and the compassion that she expressed here to do this job if I felt they could do it.

As a college graduate, I can appreciate that one could acquire a lot of knowledge and skills from classroom training, but my understanding is that the nominee has no substantial formal education concerning the coal industry.

Safety should not be a political game. The purpose of the Federal law is to protect the workers. We are the most highly productive miners in the world, and the quality of our product is high. We have earned the privilege of demanding that those who administer the Mine Safety and Health Administration be the most qualified and experienced there are. For several years as a member of my local union safety committee and recently as a "walkaround"—that is, a person who accompanies the mine inspector on their routine inspections—I have observed Federal inspectors that have performed their duties. Over the course of the last few years, I have noticed a change in the rigor with which these inspections have been conducted and even demoralization among some of the inspectors.

As a former employee of the United States Government, a VISTA volunteer, I know the importance of the people who are in charge of Federal agencies having extensive administrative experience. Is it asking too much to expect this Committee to inquire into the extent of Ms. Strunk's administrative experience if she is to be put in charge of an agency which will be responsible for our health and safety?

There is no such thing as Republican or Democratic safety—only safety. I think I speak for all women miners when I convey to the Committee we demand the best administration possible. Will Ms. Strunk fill the bill? Or will Mine Safety and Health Administration sink into more confusion? What will happen in an emergency or, God forbid, a mine disaster?

Finally, I would like to convey the unanimous opinion of the women miners who came from all over the Nation's coal fields, Utah to Pennsylvania and Wyoming and Alabama: We feel Richard Trumka and the United Mine Workers of America in opposing this nomination is standing up to protect the thing which is most important to men and women miners—our health and safety.

Thank you, Senator.

The CHAIRMAN. Ms. Jefferson.

Ms. JEFFERSON. Good morning, Senator Kennedy and Members of the Committee.

My name is Norma Jefferson. I am an underground coal miner employed for the last eight years with Consolidated Coal Company, working over seven mines in Mount Morris, Pennsylvania. In addition to my regular job, I serve as a member of the local union health and safety committee.

Mr. Kennedy, I would like for you to understand very clearly why I am opposed to this nomination. On the safety committee, I and three other committeemen clearly represent 470 workers at the No. 7 mines. I do this job in addition to shoveling coal eight hours a day, six days a week, and caring for my six children.

Whenever a union member feels that their life is being endangered, we are the first people they call on, no matter what time of day or night it is. On several occasions, I have been awakened by coal workers who are faced with a safety problem that needed immediate attention.

After we review the situation, we call the Federal inspector, if necessary. If the company has violated the law, we depend on these people to write a citation and get the problem corrected.

Too many times while traveling with Federal inspectors, in my job as a safety committee member, I have seen violations being ignored, stepped over and not even mentioned. I will tell you about one situation that happened recently. It is important for you to understand that our mines liberate more methane gas than any mine in the State of West Virginia.

Methane is a dangerous gas that you cannot smell or see. In our mines last month, the power went suddenly off at the end of the shift after people had been getting on to the elevator. When the power goes off, it could mean many things. It could mean that an explosion had occurred in one part of the mine and was traveling toward the elevator. If the Federal law had been enforced, the lampman would have had keys to activate the emergency hoist. But the law was not enforced. No one had a key. They had to wait 15 minutes before the power came on. If there had been an emergency, there would have been no way out of the mines, which is nearly a thousand feet deep.

That is only one of the many situations we have been faced with on a daily basis. That is why we are so concerned about this nomination, and it is not only the women miners who oppose it. Just a few days ago, one of the men who had no idea I was coming here came to me and told me how concerned he was about the Federal Government not enforcing the law, and that the fact that the person nominated to head the agency had no actual mining experience. He was worried. We are all worried. Our health and safety, our lives, ultimately rest in the hands of the person who heads this agency.

As a black woman, I certainly appreciate the struggle women have gone through to be accepted by the mining industry. Women miners are strongly behind the appointment of qualified women to high Government positions, but only if they have the qualifications it takes to do the job right.

We stand with our brothers in demanding that a qualified person be appointed to this position.

The CHAIRMAN. I would like to ask whether you have any comments that you would like to make.

Mr. McATEER. Senator Kennedy, I just have a few comments to add to those that have gone before me. My name is Davitt McAteer. I'm the Director of the Occupational Safety and Health Law Center, and I represent the Coal Employment Project upon matters of health and safety frequently. It is on that basis that I am here.

We testified before this Committee back in March and again in April that there were serious problems with this agency. Those include the regulatory rewrites that have been pointed out, the difficulty with reducing fatal accident rates, the difficulty of accountability within the agency. We have looked at this nominee from the

standpoint of how she might handle those difficult problems. Sadly, or unfortunately, we have found this nominee wanting.

We believe that this nominee, while qualified for a number of jobs within the agency, is not qualified to head up the agency. This puts us in a difficult spot. Obviously, as my colleagues have testified, and as an organization of women miners and an organization which intends to and attempts to advance the position of women, to oppose this position made it a difficult choice for us.

But the overriding issue has to be the mine safety issue and the issue of whether or not this person will improve the miners' safety and health.

This is not to question the commitment of Ms. Strunk. I believe her commitment was well stated today, and I believe that she is, indeed, committed to improving health and safety. The improving of health and safety, however, is a very, very difficult task. It involves the manipulation, if you would, and the encouragement and the movement of an agency of roughly 3,000 people, covering 18,000 mines, a quarter of a million miners who work every day, one of whom is killed every other day and 50 of whom are injured each day. So that it is not to say that you simply can by will or by desire improve mine safety, but there has to be knowledge and experience and background and analysis that goes with that desire which will make the improvement possible.

Sadly, we do not believe this nominee has that background. We do not believe this nominee has those qualifications. We do not question, again, her desire, but we simply do not think that she has the capability to take on this job in this limited period of time before the change in administrations, and to improve it.

We, like President Trumka, echo the problem of the learning curve, and we also echo the difficulty that she will have in coming to grips with the bureaucracy; because like it or not, the bureaucracy has gained experience and, over the years, learns how to manipulate and work its own will against its leadership.

Ms. Strunk has indicated that she simply will delegate authority and that she will provide that leadership. Unfortunately, in the case of the Mine Safety and Health Administration, because of turnovers and because some senior personnel are under a cloud—those clouds that were raised by the hearings held by this Committee—there is not the kind of depth that she can turn to in terms of senior staff to delegate her responsibilities.

Finally, I find myself in a difficult spot personally. I too come from a background of a mining family; I too come from a mining town; and I dislike opposing a nominee who is from the same background that I am. Unfortunately, because of the combination of factors, because of the lack of this combination of factors, we are in a position of having to oppose Ms. Strunk.

Thank you.

[The prepared statement of Mr. McAteer follows:]

OCCUPATIONAL SAFETY AND HEALTH LAW CENTER

1536 16th Street, N.W. • Washington, D.C. 20036 • (202) 328-8300
Field Office: P.O. Box 181 • Worthington, West Virginia 26591

TESTIMONY

SENATE LABOR AND HUMAN RESOURCES COMMITTEE

July 29, 1987

Ladies and Gentlemen, my name is J. Davitt McAteer. I am the Director of the Occupational Safety and Health Law Center. I wish to thank you for this opportunity to appear here today to discuss the appointment of Dorothy Livingston Strunk as assistant secretary for the Mine Safety and Health Administration. I am here representing the Coal Employment Project, a group which represents women miners in both coal and metal mines throughout this country.

Review of the nomination, I believe, should be based on three considerations: (1), the current situation and needs of miners today; (2), the qualifications of Mrs. Strunk for the position to which she has been nominated; and, (3), the current political climate in which the nomination has been made. I would like to discuss each of these separately, and then determine whether to recommend for or against the nomination.

Current Needs

In our testimony on March 11, 1987 before this same committee we pinpointed a number of problems with MSHA. Chief among them were the delay in the rewrite of major regulations coupled with the tampering of the integrity of the process for encompassing comprehensive and professional staff input, the lack of progress over the past eight years in achieving any real reductions in the fatality rate, undermining of any efforts to use the accident investigation process as a means to achieve preventive

measures, the ineffective use of civil and criminal penalties, insufficient training programs, etc.

On April 27, 1987 we submitted testimony on the Wilberg Mine disaster. We were able to document MSHA's contributions to the disaster by the omissions and commissions of its own staff. These included inspection errors and faulty judgement by agency administrators involved in the approval of roof control or ventilation plans, reversal of staff recommendations, etc.

Essentially our testimony indicated MSHA has not performed effectively in promulgating and enforcing health and safety regulations, nor has it used its accident investigation function to admit its own mistakes or to correct those conditions which repeatedly lead to carbon copy accidents.

Within the past several months, the American Mining Congress has petitioned MSHA for a regulation rewrite which would downgrade the MSHA accident data base so as to make it conform more closely with the, widely admitted, less effective OSHA database. The quality of MSHA's database is nationally recognized; what is lacking is MSHA's commitment to working it effectively for achieving its health and safety objectives.

The miners' need from MSHA is leadership in assuring appropriate regulation, objective investigation, a forceful approach to prevention, and the capacity to deal with pressure groups with less than 100% commitment to miner health and safety. We need this leadership across-the-board, whether the challenge is to the integrity of the data collection system or to the day-to-day working conditions at the mine site. As we

review Mrs. Strunk's background and qualifications, and the political climate in which the assistant secretary for MSHA will have to operate over the next 17 months, we will need to evaluate whether or not she can provide the necessary leadership.

The Background of Dorothy L. Strunk

I cannot speak about Mrs. Strunk on the basis of first hand knowledge. The record indicates that in 1976 Mrs. Strunk was a legislative clerk on the House Education and Labor Committee. Today she is the Senior Legislative Associate for the minority of this committee. Over the years she has obviously achieved growth and advancement." People whose judgment I respect have spoken highly of her personal qualities. Despite these commendable achievements, however, we have two concerns.

First, is the lack of hands-on administrative and management experience. MSHA is a complex government bureaucracy of over 3300 people who function in many wide-spread locations nationally. MSHA leadership at this point in time, when so many substantive issues are hanging fire, calls for someone who not only understands the issues conceptually, but has the day to day operational skills to move a sometimes reluctant agency to a more effective implementation of its regulatory mandate.

The lack of management experience is particularly crucial because she would be assuming leadership of a confused and internally divided agency. If, for example, she were stepping into an efficient and effective agency, she could compensate for her lack of hands-on experience by delegating operational details to a proven cadre of top administrators. But recent hearings of

this committee have highlighted grave errors of management and have raised questions about the MSHA hierarchy. There have also recently been personnel changes through retirement, etc. which place less experienced people at the senior staff level.

Second, Mrs. Strunk's background lacks vitally needed in-depth technical expertise. She has, as far as we know, neither mining experience nor an engineering background through either first hand experience or training. Nor does she appear to have a comprehensive and substantial health and safety background by training or experience. These technical shortcomings present major difficulties, even if the management experience were present. They bring even more clearly into focus the importance of a capable and credible senior staff, which, as indicated above, is not readily available.

We are not saying that Mrs. Strunk does not have skills, or that she is incapable of growing into an effective manager. We are stating the obvious fact that Mrs. Strunk has not demonstrated nor has she had the opportunity to demonstrate that she has, in fact, the kind of experience needed to head up this complex, sprawling agency so beset by significant problems. This is not a position for on-the-job training. Other jobs within the Agency clearly fit her skills and ability without putting at risk the nation's 250,000 men and women miners.

The Political Climate

If timing is the essence of politics, then two time factors are significant in considering this nomination. First, the current nomination will possibly provide the third person in less

than six months to occupy the Assistant Secretary position. Second, if anyone were to be approved for that position today it would be their first day for the rest of the present Administration's life. It is an understatement to say that the political stripe of the new Administration, less than 17 months away, is impossible to discern. I have no hesitation in saying, however, that the policies of the Reagan Administration have not encouraged forceful enforcement of mining health and safety regulations.

It is only prudent to assume that the learning curve of the current nominee will occupy a significant portion of the remaining 17 months. This time lag, in which we can expect relatively little substantive action, coupled with an agency reacting to the high turnover in the position of its top official, can only guarantee a period of MSHA inactivity. The day to day needs of the miners, as well as the potential risk from disasters and accidents, do not permit the luxury of a learning curve. Every two days a miner is killed; every day 50 miners are injured. Action to bring down these statistics requires the appointment of the best qualified individual.

Recommendation

In summary we again direct your attention to the major problems besetting MSHA. These problems were aired in the hearings of this Committee in March and April, at which time there was bi-partisan agreement that MSHA was not addressing significant problems. If, in the time remaining to the current Administration, we can hope to make some significant attempt at resolving those problems, we need a proven administrator with a

- 6 -

demonstrated concern for miner health and safety, who will hit the decks of the agency running. Based on the documented experience of Mrs. Strunk, we do not believe she is that person. We, therefore recommend against the nomination of Dorothy L. Strunk to the position of Assistant Secretary, MSHA.

The CHAIRMAN. I want to thank all of you for your appearance here. I am sure all of you would like to be here in another capacity in supporting someone who is well qualified for this job and who also probably was a woman. But I can hear both from your direct words and from your own demeanor the real heart searching which has taken place in terms of reaching your own decisions and determinations on it.

I think you have a lot of courage for it and deserve a lot of commendation. I think what you are basically speaking to is what people that you really are responsible for and to, and those are, in this particular organization, the women in the mines and those that are seeking leadership positions in the mines, women who need the jobs in terms of pressure needs in terms of their families and their loved ones. And you are really responding to exercising your own best judgment about how their interests will best be protected. I think that is an extraordinary act of both responsibility—you deserve a lot of credit for it.

I think anyone who listened to the testimony would understand very well that you reached really an independent judgment and decision on this matter, and that you did it with a good deal, as I said, of searching. I think that gives your testimony an additional kind of credibility.

I think it is very powerful testimony, said in a clear and simple and direct manner, but very powerful. You all deserve a good deal of credit for expressing it. I am sure it is not an easy thing to do.

We thank you all very much for your testimony. Let me just as a matter of interest, ask what has been sort of the flow line of women in the mines in recent years? I will ask whoever would like to handle that.

Ms. HALL. Federal statistics show that the first woman started in an underground mining job in 1973. As of today, about 3,800 women have started. Unfortunately, due to the conditions in the industry, that has slowed down significantly; also with the decline of affirmative action programs.

The CHAIRMAN. How many women have been involved in, say, accidents in mines, too?

Ms. HALL. We know that five women have been killed underground. The accident rate is fairly consistent with the total.

The CHAIRMAN. What are the real pressures for women to go into the mines? There is a lot of unemployment, obviously, in the mine fields in any event. But what are really the pressures for women to go into the mines?

Ms. HALL. These ladies can answer that better than I can.

The CHAIRMAN. Ms. Regan.

Ms. REGAN. Well, I think a lot of news coverage has been devoted to going into an all-male industry and how much sexual harassment women face on the job. In some instances from our fellow male miners, there has been a great deal of this. But what is not covered is the fact that if it were not for their encouragement, we would not be here.

It has been the men I have worked with who have encouraged me to get more involved in the union, and I do not think I would be here today if it had not been for them.

Surely, it has been very difficult, but I think one of the severest problems we face is coming into an industry that we knew very little about and needing to know that there is someone there that will be looking over our health and safety. I do not think there is anything that means more to coal miners than safety on the job.

The CHAIRMAN. Let me ask you, Ms. Jefferson, what made you want to become an underground miner?

Ms. JEFFERSON. Mainly—it was not the money. The money, the pay is good, but I was having family problems at the time, and I knew that I would have to end up supporting myself. I wanted to try it. You know, I saw where other women were trying it. It was a good-paying job. It was an opportunity to put myself out, to reach out.

I have become very interested in the union, very interested in safety. I think safety cannot be emphasized enough.

The CHAIRMAN. Do you think this is uppermost in the minds of the workers themselves, the safety issues?

Ms. JEFFERSON. I think safety is.

The CHAIRMAN. Would you agree with that, Ms. Regan?

Ms. REGAN. I do not think there is any concern that is more uppermost in our minds, that and the fact that changes in those regulations. You can talk to people, people my own age—I am 44 years old, and I can talk to another man my age who looks 20 years old than I do. He started in the mines long before the Act came into being in 1969. The conditions then, it is hard for us who work in the industry today to be aware of what it was like then—the ventilation, the amount of coal dust in the air, the fact that the reason he probably looks a lot older is that he has severe pneumoconiosis and is still working. But we are the same age. We do not look anything alike.

I would hate to see us go back to those periods. I have already begun to notice, as I mentioned, a change in the rigor in which the Federal inspectors seem to do their job. I wonder sometimes if this does not come from the top of the agency, that they are not receiving the assurance and guidance they feel they need to make tough decisions.

The CHAIRMAN. Okay. Well, you have made a very strong case, a very persuasive one. I want to thank you all very much for taking the time to come up and be with us.

Ms. REGAN. Thank you.

Mr. McATEER. Thank you, Senator.

The CHAIRMAN. I want to welcome our next witness, the Honorable John Erlenborn, the former Ranking Minority Member of the House Education and Labor Committee, who has asked to testify in support of the nomination.

Congressman, we welcome you here.

**STATEMENT OF HON. JOHN N. ERLBORN, FORMER RANKING
MINORITY MEMBER, HOUSE EDUCATION AND LABOR COMMIT-
TEE**

Mr. ERLBORN. Thank you, Mr. Chairman.

Mr. Chairman, it has been a long morning. I want to thank you for having made it possible for me to be here to testify on behalf of the nomination of Dottie Strunk.

I am not going to read the prepared statement which, in accordance with the rules, I have furnished to the Committee. Let me just say very briefly my background here in the Congress. I served for 20 years in the House of Representatives; most of those years on the Education and Labor Committee. The service that I began on that Committee was almost concurrent with the time that Dottie Strunk began to work for the Committee, at that time as a clerk.

Over the course of the years, I have watched Dottie progress in further and further responsibility and a recognition of her ability. I think that it is very impressive, what she has been able to accomplish without the icon of a college degree hanging on the wall.

She did it on the basis of her merit and her worth. I think that her nomination ought to be approved, and I believe that had the other members of the Committee been here today and had an opportunity to see the grace and composure that Dottie exhibited in what would be very trying circumstances for anyone, knowing that they are here in a hearing where they are going to be opposed by some very important forces. I think that if they had the opportunity to see Dottie's composure and grace, as I say, this morning that they would be supporting her as I believe they should.

As to her abilities, there is no question in my mind as to her administrative experience. I would merely say that there are many former Members of Congress and people from the staff of the Congress who have been appointed to equally or greater important positions over the course of the years; and if it were necessary that they have the kind of administrative experience that seems to be required here, they never would have been confirmed. I think we both know people like that who have had their experience principally in the Congress. I am confident that Dottie has all of the ability, including the administrative capabilities to do the job well.

I know the hour is late, the hearing has been long. I just want to again thank you for the opportunity to express my very strong support for Dottie's nomination.

[The prepared statement of Mr. Erlenborn and additional material supplied for the record follow:]

Statement by
John N. Erlenborn
Partner
Seyfarth, Shaw, Fairweather & Geraldson
Washington, D.C.
Before the
Senate Committee on Labor and Human Resources

Wednesday, July 29, 1987

Thank you, Mr. Chairman, for the opportunity to testify in behalf of Dorothy Livingston Strunk. I deem it a distinct privilege and pleasure to speak in support of this exceptional young woman for the position of Assistant Secretary of Labor for Mine Safety and Health.

As you and several of your committee colleagues are aware, Mr. Chairman, I served on the House Education and Labor Committee for a number of years -- specifically from May of 1966 until my retirement from Congress in January of 1985 -- rising to the position of ranking Republican member in April of 1982. Thus, I was a member of the Committee during most of Dottie's remarkable tenure there as one of the minority staff.

Dottie Strunk -- who was then Dottie Livingston -- came to the Committee as assistant to the minority clerk in 1967. A coal miner's daughter who was born and raised in Pennsylvania, she was 19 or 20 years old at the time.

I won't bother you with a detailed tracking of her career, but a few such observations seem to me to be necessary if the Committee is to know what makes Dottie Strunk tick and, therefore, why she would excel as Assistant Secretary for Mine Safety and Health.

Although Dottie began her legislative career as an assistant clerk and was promoted along the way to minority clerk, her interests always went beyond her responsibilities. With little encouragement she became involved in legislation and, in the early 1970s, won assignments to such issues as domestic violence and displaced homemakers in addition to her regular duties. She also took it upon herself to become well informed with regard to the Fair Labor Standards Act, mine health and safety, and occupational safety and health. She

taught herself so well that we had little hesitancy about relying upon her when the counsels who worked on these issues were otherwise occupied.

Dottie's superb reputation led, in 1977, to an offer, which she accepted, to manage the minority office of the Ways and Means Committee. In 1979, however, we persuaded her to return as a legislative associate and subsequently assigned to her chief responsibility for all legislative activity with regard to the Federal Mine Safety and Health Act and the Occupational Safety and Health Act.

I recite this bit of history to highlight, first, Dottie's remarkable staying power. Not many staff are able to stay with a committee for so many years, through five different ranking Republican members. It is also unique for a committee staffer to rise through the ranks from a clerical position to that of clerk for the minority, to a junior and then senior legislative position having responsibility for such complex and complicated laws as the Federal Mine Safety and Health Act and the Occupational Safety and Health Act.

By this course, as my former House Committee colleagues on both sides of the aisle can attest, Dottie Strunk became a recognized expert in job safety and health matters. This is how she came to know so many key people in the area of mine health and safety and earned their respect for her in-depth knowledge, competence, professionalism, and judgment.

Such achievements in and of themselves make Dottie well qualified to administer our mine safety and health laws. Such achievements are as well testimony to the drive, seriousness of purpose, and strength of character which contribute to her excellent qualifications to be Assistant Secretary for Mine Safety and Health.

It should be noted in passing that Dottie Strunk has been successful not only in pursuing a demanding career. She is also raising a family, and she and Michael appear to be doing a superb job of that as well.

There are those who have questioned the adequacy of Dottie's administrative experience. I respectfully suggest that candidates for any position are few and far between who possess all of these attributes -- many years of administrative responsibilities, a solid knowledge of the laws involved, keen judgment, common sense, and professional competence. Certainly if extensive managerial or administrative experience were a prerequisite to a high level position in the Executive Branch many from Capitol Hill, from academia, from research, and from law firms who have been confirmed for such positions would never have passed the test.

- 3 -

I believe Dottie's other attributes more than make up for any possible lack of administrative experience. Moreover, I am confident that under her leadership the 2,900 other people at the Mine Safety and Health Administration will supplement and complement her administrative skills. I am confident as well that this country's 300,000 miners are not likely to find a more knowledgeable and compassionate person to watch over their health and safety in the mines. You can give them that support by voting to confirm Dottie Strunk. I urge you to do so.

Thank you.

1987 JUL -7 AM 9:08

3933 S.E. 17th Lane
Ocala, FL 32674

July 3, 1987

The Honorable Edward M. Kennedy
Chairman, U.S. Senate Committee on
Labor and Human Resources
113 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Kennedy:

As the former Democratic Counsel to the Subcommittee on Health and Safety of The U.S. House of Representatives (1977-1984), which has primary jurisdiction over the Federal Mine Safety and Health Act, I am shocked at the comments of President Trumka of The United Mine Workers of America with respect to the qualifications of Mrs. Dorothy Strunk who has been nominated for the position of Assistant Secretary of Labor for Mine Safety and Health.

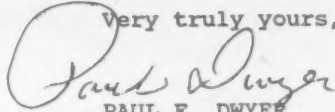
Mrs. Strunk and I worked together since 1973, but on different sides of the political spectrum. While she served the Republican Minority, I worked to further the interests of the Democratic Majority. While the respective constituencies we represented had different views on the safety and health of American miners and workers, and usually considered themselves to be adversaries, Mrs. Strunk at all times conducted herself in a very professional manner. She is a woman of integrity and honesty, and possesses superior expertise in the mine safety and health law.

But, more importantly, she at all times demonstrated a dedication to the safety and health of American workers and, specifically, to the safety and health of American miners. As the daughter of a disabled coal miner, she knows on a very personal level the danger in coal mining and the need for an aggressive federal mine safety and health law. During my association with Mrs. Strunk, she at all times demonstrated her conviction that a strong federal law and diligent enforcement to protect American workers and miners is absolutely necessary.

Mrs. Strunk has both a sound grasp of the mine safety and health law as well as the workings of the agency she has been nominated to head. With her Congressional background and expertise, I believe she can make the changes that are needed to improve the protection of American workers in the mining industry.

I urge the Committee to recommend her confirmation. Should the Committee have any further questions concerning Mrs. Strunk's qualifications, I would be most happy to respond.

Very truly yours,


PAUL F. DWYER

PFD:mkd

cc: Hon. Claiborne Pell, U.S. Senate
 Hon. Howard M. Metzenbaum, U.S. Senate
 Hon. Spark M. Matsunaga, U.S. Senate
 Hon. Christopher J. Dodd, U.S. Senate
 Hon. Paul Simon, U.S. Senate
 Hon. Tom Harkin, U.S. Senate
 Hon. Brock Adams, U.S. Senate
 Hon. Barbara A. Mikulski, U.S. Senate
 Hon. Orrin G. Hatch, U.S. Senate
 Hon. Robert Stafford, U.S. Senate
 Hon. Dan Quayle, U.S. Senate
 Hon. Strom Thurmond, U.S. Senate
 Hon. Lowell P. Weicker, Jr., U.S. Senate
 Hon. Thad Cochran, U.S. Senate
 Hon. Gordon Humphrey, U.S. Senate
 Hon. William E. Brock, Secretary, U.S. Department of Labor
 Mr. Richard Trumka, President, United Mine Workers of America
 Mr. John A. Knevel, President, American Mining Congress

MAJORITY MEMBERS
ALBERT J. F. HARRIS, CALIFORNIA
Chairman

WILLIAM D. FORD, MICHIGAN
JOSEPH M. GAYDO, PENNSYLVANIA
WILLIAM (BILLY) CLAY, MISSOURI
MARIO BUDAGI, NEW YORK
AUSTIN J. HURPHY, PENNSYLVANIA
DALE E. KILDEE, MICHIGAN
PAT WILLIAMS, MONTANA
MATTHEW E. SMITH, CALIFORNIA
MAJOR R. DWYER, NEW YORK
CHARLES A. HAYES, ALABAMA
CARL C. PERKINS, KENTUCKY
THOMAS C. SAWYER, OHIO
STEPHEN J. SOLARZ, NEW YORK
ROBERT E. WISE, JR., WEST VIRGINIA
TIMOTHY J. PENTT, MINNESOTA
BILL RICHARDSON, NEW MEXICO
TOMMY F. ROBINSON, ARKANSAS
PETER J. VUCUSESKY, ILLINOIS
CHESTER G. ATKINS, MASSACHUSETTS
JAMES JOHNS, INDIANA



COMMITTEE ON EDUCATION AND LABOR
U.S. HOUSE OF REPRESENTATIVES

2181 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515

MINORITY MEMBERS:

JAMES M. JEFFORDS, VERMONT
WILLIAM F. GOODLING, PENNSYLVANIA
E. THOMAS COLEMAN, MISSOURI
THOMAS E. PETRI, WISCONSIN
MARCE ROUREIMA, NEW JERSEY
STEVE GUNDERSON, WISCONSIN
STEVE BARTLETT, TEXAS
THOMAS J. TAUBE, IOWA
RICHARD K. ARNEY, TEXAS
HAROLD W. FARWELL, KANSAS
PAUL E. HENRY, MICHIGAN
FRED GRANDY, IOWA
EARS WALLINGER, NORTH CAROLINA

TELEPHONES

MAJORITY—(202) 225-4527
MINORITY—(202) 225-3721

July 1, 1987

The Honorable Edward M. Kennedy
Chairman
Committee on Labor and Human Resources
U.S. Senate
SD 428
Washington, D.C. 20510

Dear Mr. Chairman:

We are writing to express our strong support for Mrs. Dorothy Strunk, who has been nominated to serve as the Assistant Secretary of Labor for the Mine Safety and Health Administration (MSHA). We hope that you and the Committee on Labor and Human Resources will soon act to support that nomination.

While we do not normally become involved in the confirmation process, we feel that Mrs. Strunk's nomination merits an exception for two reasons.

First, as you know, anonymity is a key attribute for Congressional staff. It is seldom that Congressional staff gain deserved recognition for their skills and accomplishments. Therefore, we feel it is incumbent upon us to let you know of our high regard for the work she has done and the qualifications she would bring to the position.

Having worked with Mrs. Strunk closely on mine and other safety and health issues, we can attest to the fact that her work is thorough and professional, and that her advice has been uniformly knowledgeable and fair. Indeed, the fact that she has worked on Capitol Hill may enable her to bring a greater degree of objectivity to the position than if she had worked exclusively for labor or management.

Second, we think she will make an outstanding Assistant Secretary for MSHA. As we hope that you will discover in the confirmation process, her views have been balanced, at times critical of government, management and labor. Few individuals have a better understanding of and familiarity with the Mine Act. Clearly the agency needs strong, sustained leadership. There is no doubt in our minds that she can provide that leadership.

The Honorable Edward M. Kennedy
 July 1, 1987
 Page 2

We hope that you will be able to schedule a confirmation hearing soon, and that you and your colleagues will act favorably on the nomination.

Sincerely,


 James M. Jeffords


 William F. Goodling

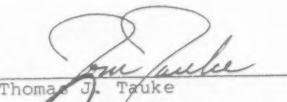

 E. Thomas Coleman

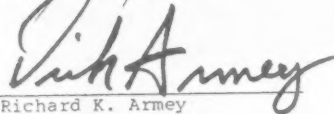

 Thomas E. Petri

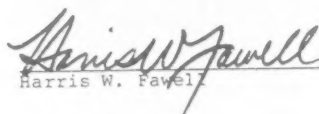

 Marge Roukema

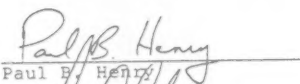

 Steve Gunderson

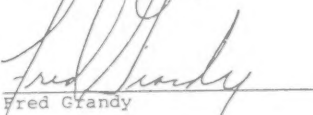

 Steve Bartlett

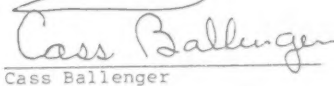

 Thomas J. Tauke


 Richard K. Arney


 Harris W. Fawell


 Paul E. Henry


 Fred Grandy


 Cass Ballenger

cc: Members, Senate Committee on
 Labor and Human Resources

SEYFARTH, SHAW, FAIRWEATHER & GERALDSON

1111 19TH STREET, N.W.

WASHINGTON, D.C. 20036

1007 A 886 22 444 8051

TELEX 440604-SSTG

CHICAGO OFFICE
55 EAST MONROE STREET
CHICAGO, ILLINOIS 60603
AREA CODE 312 346-8000
CABLE ADDRESS: INTERLEX

NEW YORK OFFICE
757 THIRD AVENUE
NEW YORK, NEW YORK 10017
AREA CODE 212 715-9000

WRITER'S DIRECT DIAL (202) _____

LOS ANGELES OFFICE
2029 CENTURY PARK EAST
LOS ANGELES, CALIF. 90067
AREA CODE 213 277-7200

SAN FRANCISCO OFFICE
ONE POST STREET
SAN FRANCISCO, CALIF. 94104
AREA CODE 415 397-2823

July 21, 1987

Senator Edward M. Kennedy
Chairman
Committee on Labor and Human Resources
315 Russell Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

It is with distinct pleasure that I write to you in support of the nomination of Mrs. Dorothy Strunk to be Assistant Secretary of Labor for Mine Safety and Health.

As you may recall, I served on the House Education and Labor Committee from May, 1966, until my retirement from Congress in January of 1985, rising to the position of ranking Republican member in April of 1982. Thus, I worked with Dottie during most of her tenure with the minority staff of the Committee, which began at about the same time as mine.

Dottie Strunk is an extremely able young woman who has successfully and gracefully managed both a home for her husband and children and a demanding career. She has a working knowledge of many of our labor laws, but for the past several years her major committee responsibilities have been occupational safety and health and mine health and safety. As my former colleagues on both sides of the aisle will attest, Dottie has become an expert in job health and safety matters. She knows the key people in the coal mine safety and health fields and has earned their respect for her in-depth knowledge, competence, demeanor, and judgment.

* SEYFARTH, SHAW, FAIRWEATHER & GERALDSON

Senator Edward M. Kennedy
July 21, 1987
Page Two

In summary, Mr. Chairman, I am convinced there are few people as well qualified as Dottie Strunk to administer the Federal Coal Mine Health and Safety Act and its regulations. I am confident she would carry out such responsibilities diligently and in every way honor the trust placed in her by your committee in favorably reporting her nomination.

Sincerely yours,

SEYFARTH, SHAW, FAIRWEATHER
& GERALDSON

By *John N. Erlenborn*
John N. Erlenborn

JNE/slr
0041r

cc: Tom Rollins
Senator Claiborne Pell
Senator Spark M. Matsunaga
Senator Paul Simon
Senator Brock Adams
Senator Orrin G. Hatch
Senator Dan Quayle
Senator Lowell Weicker, Jr.
Senator Gordon J. Humphrey

Senator Howard M. Metzenbaum
Senator Christopher J. Dodd
Senator Tom Harkin
Senator Barbara A. Mikulski
Senator Robert T. Stafford
Senator Strom Thurmond ✓
Senator Thad Cochran
Honorable William Brock



AMERICAN MINING CONGRESS

FOUNDED 1887

Suite 300
1920 N Street N.W.
Washington, D.C. 20036
202/861-2800
TWX 710/822-0126
Easylink: 62758020

Officers

Chairman:
Harry M. Conger
Vice Chairman and Chairman,
Finance Committee:
Milton H. Ward

Vice Chairman:
Ralph E. Bailey
Robert H. Quenon
Frank A. McPherson
Allen Born
Richard de J. Osborne
Gordon R. Parker
G. Robert Durham
George D. Kennedy
M. Thomas Moore

President:
John A. Knebel

Vice President & Secretary:
Barbara Spillinger

Directors

Robert W. Hulton, Greenwich
Ralph E. Bailey, Stamford*
Thomas A. Holmes, Woodcliff Lake NJ
A.M. Wilson, San Francisco
Robert H. Quenon, St. Louis
Frank A. McPherson, Oklahoma City
Calvin A. Campbell, Jr., Chicago
Harry M. Conger, San Francisco
Richard G. Miller, Chicago
Lord Clitheroe, London
Kenneth J. Barr, Englewood CO
A.W. Calder, Pittsburgh
Gino P. Giusti, Stamford
William G. Kegel, Indiana PA
John A. Wright, Clayton MO
Douglas J. Bourne, Houston
Milton H. Ward, New Orleans
Renold D. Thompson, Cleveland
G. Frank Joklik, Salt Lake City
Allen Born, Greenwich
Michael R. Bowlin, Denver
B.R. Brown, Pittsburgh
R. Gene Dewey, Los Angeles
Gerard K. Drummond, Portland
Richard M. Holsten, Jr., Englewood
Robert A. Lofthrop, Boise
George E. Nettels, Jr., Pittsburg KS
Richard de J. Osborne, New York
Gordon R. Parker, New York
Reuben Richards, New York
W.R. Stamler, Millersburg KY
B.G. Bradley, Dallas
G. Robert Durham, Phoenix
Richard W. Ince, Knoxville
George D. Kennedy, Northbrook IL
Terry A. Kirkley, Houston
M. Thomas Moore, Cleveland
Carl E. Nickels, Cleveland
John F. Scheeler, Orange CA
Robert T. Spitz, Charlotte NC
Arthur Brown, Coeur d'Alene
Sir Ian MacGregor, New York †
N.T. Camicia, Greenwich †
Charles F. Barber, New York †

* Immediate Past Chairman
† Honorary

July 21, 1987

1987 JUL 22
The Honorable Dorothy L. Strunk
Labor and Human Resources Committee
United States Senate
Washington, D.C. 20510

Dear Senator:

We are pleased to inform you of our support for the President's nominee for the position of Assistant Secretary of Labor for the Mine Safety and Health Administration (MSHA).

Dorothy L. Strunk is a woman who possesses the requisite qualities of integrity, expertise and experience needed to fulfill the duties of this important position in an outstanding manner.

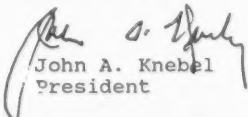
We have worked with Ms. Strunk for more than 15 years in her capacity as minority staff on the House Education and Labor Committee. Although we have not always agreed with her views, we can report to you that she is totally dedicated to protecting the health and safety of our nation's miners and to carrying out the provisions of the 1977 Federal Mine Safety and Health Act.

As you know, MSHA has been the focus of recent criticism by this committee. These criticisms stem from complaints against the bureaucracy lodged by both industry and labor.

Ms. Strunk brings to the position of Assistant Secretary an understanding of the congressional process, the underlying statute, the agency itself, and a passion for safety and health that results from being the daughter of a disabled coal miner. We believe that these qualities, combined with her management, leadership, and interpersonal skills, will enable her to discharge the responsibilities of Assistant Secretary in an outstanding fashion and to resolve correctly this committee's criticisms of the agency.

We urge you to vote to recommend her confirmation to the United States Senate.

Sincerely,


John A. Knebel
President

900 Spring Street
Silver Spring, Maryland 20910
United States of America
(301) 587-1400

NSGA

National
Sand and Gravel
Association

July 24, 1987

The Honorable Strom Thurmond
United States Senate
Washington, DC 20510

Dear Senator Thurmond:

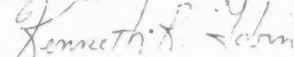
On behalf of the National Sand and Gravel Association, I want to endorse the President's nomination of Dorothy L. Strunk to be the new Assistant Secretary of Mine Safety and Health in the U.S. Department of Labor.

Dorothy Strunk is eminently well qualified for this position by virtue of her obvious intelligence and her years of experience as the senior legislative associate on the minority staff of the House Education and Labor Committee. Frankly, we are astonished that this nomination has encountered opposition from any quarter, but the opposition by some elements of organized labor is particularly startling. Ms. Strunk is the daughter of a retired coal miner who suffers from black lung disease and who is a long-time member of the United Mine Workers of America. Some of the verbiage that has been used in opposition to Ms. Strunk's nomination leads us to suspect a certain sexist bias in this opposition. To criticize Ms. Strunk for lack of experience or lack of sympathy for American mine workers seems disingenuous at best.

I can tell you, from personal experience, that Ms. Strunk is not only well informed but that she consistently and conscientiously strives to be fair and objective. Indeed, her objectivity has led her on more than one occasion to question and even oppose points of view expressed by us and other industry groups. Therefore I have no doubt that while she will be considerate and receptive to the points of view expressed by all parties who have business with the Office of Mine Safety and Health, Ms. Strunk in the final analysis will exercise independent thought and judgment.

We sincerely hope you will set aside partisan considerations and give this nomination the detached and objective consideration it deserves. The Mine Safety and Health Administration is in need of a permanent Assistant Secretary in order to ensure that its functions and services are properly administered and maintained. Please see that action on this nomination is expedited.

Sincerely,



Kenneth R. Tobin
Vice President of Government
Relations and National Affairs

KRT:AH

nsa**National Stone Association**

1415 Elliot Place, N.W. • Washington, D.C. 20007-2599 • 202/342-1100

1987 JUL 27 AM 10-32

July 24, 1987

The Honorable Strom Thurmond
United States Senate
Washington, D.C. 20510

Dear Senator Thurmond,

The Senate Labor and Human Resources Committee will conduct a public hearing next Wednesday, July 29, 1987, on the nomination of Ms. Dorothy L. Strunk a native of Nanticoke, Pennsylvania for the position of Assistant Secretary of Labor for Mine Safety and Health.

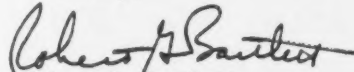
For the past nine years the National Stone Association, in working on MSHA and OSHA legislative matters, has had many opportunities to observe and appreciate Ms. Strunk's keen understanding of the law and her reputation.

The National Stone Association, and its member companies, employing more than 64,000 men and women nationwide, believe she will make an outstanding Assistant Secretary of Labor for Mine Safety and Health.

Accordingly, we respectfully recommend that the Senate Labor and Human Resources Committee recommend confirmation of Ms. Strunk's nomination.

Thank you.

Sincerely,


Robert G. Bartlett,
President

RGB/jbs

STATEMENT OF PATRICK R. TYSON

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

THANK YOU FOR THE OPPORTUNITY TO SPEAK TO YOU TODAY IN SUPPORT OF THE PRESIDENT'S NOMINATION OF DOROTHY STRUNK TO BE ASSISTANT SECRETARY OF LABOR FOR MINE SAFETY AND HEALTH. YOU HAVE HEARD, AND YOU WILL HEAR MORE, OF DOROTHY'S IMPRESSIVE QUALIFICATIONS FOR THE POSITION, AND I WISH TO ADD MY OWN VOICE TO THOSE OF HER SUPPORTERS. BUT, I WANT TO SPEAK TO THE ISSUE FROM A SLIGHTLY DIFFERENT PERSPECTIVE.

FOR MY ENTIRE PROFESSIONAL CAREER, I HAVE BEEN INVOLVED WITH THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, MSHA'S SISTER AGENCY IN THE DEPARTMENT OF LABOR. MY EXPERIENCE BEGAN AS A STAFF ATTORNEY IN 1973, AND THEREAFTER I HELD VARIOUS POSITIONS BEFORE LEAVING IN 1986. AT THAT TIME I WAS ACTING ADMINISTRATOR OF THE AGENCY FOR THE SECOND TIME. IN THOSE DIFFERENT POSITIONS, I HAD THE OPPORTUNITY TO WORK WITH EVERY ASSISTANT SECRETARY OSHA HAS EVER HAD; ALTHOUGH, OBVIOUSLY, SOME I WORKED WITH MORE CLOSELY THAN OTHERS.

THIS EXPERIENCE PROVIDED A UNIQUE PERSPECTIVE ON THAT OFFICE, AND I SUBMIT THAT THERE IS NO OTHER PERSON ANYWHERE WHO HAS HAD THE CHANCE TO SEE THE JOB OF ASSISTANT SECRETARY FROM SO MANY DIFFERENT DIRECTIONS.

THE SIMILARITIES BETWEEN THE HEAD OF OSHA AND THE HEAD OF MSHA ARE COUNTLESS, AND THERE SHOULD BE NO QUESTION THAT THE QUALIFICATIONS FOR BOTH JOBS ARE ESSENTIALLY IDENTICAL.

OBVIOUSLY, HAVING SEEN ALL OF THE VARIOUS OSHA CHIEFS OVER THE YEARS, I'VE HAD THE CHANCE TO VIEW THE BEST AS WELL AS THE WORST. WITHOUT OFFERING MY VOTE FOR EITHER OF THOSE HONORS, I DO THINK I CAN SPEAK WITH AUTHORITY ON WHAT CHARACTERISTICS MAKE A PERSON SUCCESSFUL IN THAT OFFICE. THESE SAME CHARACTERISTICS WILL MAKE A SUCCESSFUL HEAD OF MSHA AS WELL.

FIRST IS A KNOWLEDGE OF THIS TOWN, I DON'T MEAN WHERE THE STREETS GO, BUT HOW THE TOWN WORKS; HOW THE POLITICAL PROCESS OPERATES; AND HOW TO DEAL WITH THE HILL AND THE PRESS. AS ALL OF YOU KNOW, THIS IS A VERY DIFFERENT WORLD HERE. THE RULES ARE JUST NOT THE SAME AS THEY ARE ONCE YOU GET BEYOND THE BELTWAY. JUST LOOK AT THE PEOPLE WHO HAVE HAD TO LEARN THE HARD WAY THAT THE WAY THEY DID BUSINESS WHERE THEY CAME FROM JUST WON'T WORK HERE. YOU'VE GOT TO KNOW HOW TO GET THINGS DONE. DOROTHY KNOWS HOW TO GET THINGS DONE. SHE HAS BEEN A STUDENT OF THE PROCESS FOR YEARS. WORKING WITH THE OSHA OVERSIGHT COMMITTEE, SHE HAS SEEN THE MISTAKES ASSISTANT SECRETARIES MAKE, SEEN WHAT FAILED AND WHAT SUCCEEDED. SHE KNOWS WHAT WORKS.

THE SECOND THING NEEDED IS A KNOWLEDGE OF THE LAW TO BE ADMINISTERED BY THE AGENCY. YOU WILL HAVE TO LOOK A VERY LONG TIME BEFORE YOU FIND ANY ONE WHO KNOWS THE MINE SAFETY ACT, AND FOR THAT MATTER THE OSHA ACT AS WELL AS DOROTHY STRUNK.

THE NEXT KEY IS A KNOWLEDGE OF THE PLAYERS - THE PEOPLE WHO KNOW WHAT'S GOING ON AND CAN INFLUENCE WHAT HAPPENS. THIS INCLUDES PEOPLE ON CAPITOL HILL, IN THE DEPARTMENT OF LABOR, THE ADMINISTRATION, AND WITHIN THE AGENCY ITSELF, AS WELL AS THE PEOPLE IN THE INTEREST GROUPS, UNIONS AND ASSOCIATIONS. AGAIN, DOROTHY HAS BEEN DEALING WITH ALL OF THESE PEOPLE FOR YEARS, SHE KNOWS WHO THE PLAYERS ARE, WHERE THEY ARE COMING FROM, AND PERHAPS MOST IMPORTANTLY, SHE KNOWS WHO SHE CAN TRUST.

AFTER KNOWLEDGE OF THE PLAYERS COMES THE NEED FOR A KNOWLEDGE OF THE ISSUES. THERE ARE ALWAYS ISSUES WITHIN AN AGENCY WHICH ARE THE CURRENT "HOT TOPICS." THESE CAN BE DISCOVERED FAIRLY EASILY BY SIMPLY LOOKING AT THE VARIOUS TRADE JOURNALS WHICH COVER AN AGENCY. WHAT IS OFTEN MORE IMPORTANT THOUGH, IS A KNOWLEDGE OF THE SUBTLE ISSUES. EVERY AGENCY HAS AN INSTITUTIONAL MEMORY. IT HAS ITS SKELETONS AND ITS SACRED COWS. YOU HAVE GOT TO KNOW ABOUT THESE TO KEEP FROM HAVING THEM FRUSTRATE WHAT MAY APPEAR TO BE AN EASY OBJECTIVE. WHO BETTER TO KNOW ABOUT THESE THINGS BUT THE AGENCY'S CONGRESSIONAL OVERSIGHT COMMITTEE?

ONCE AGAIN, DOROTHY IS ONE WHO HAS BEEN THERE. SHE IS THE ONE WITH THE KNOWLEDGE AND EXPERIENCE. SHE KNOWS WHERE THE SKELETONS ARE BURIED, AND THE BATTLES NOT WORTH THE FIGHT.

ONE ATTRIBUTE SELDOM FOUND IN AN AGENCY HEAD IS A TRUE EMPATHY FOR THE PEOPLE THE AGENCY WAS CREATED TO SERVE. DOROTHY'S FATHER WAS A COAL MINER, SHE GREW UP IN A COAL MINING TOWN. SHE'S TOLD ME STORIES OF THAT LIFE, AND SHE HAS NOT FORGOTTEN HOW TOUGH IT WAS. SHE ALSO KNOWS WHAT POOR SAFETY AND HEALTH CONDITIONS CAN DO TO A MINER. TALK TO HER ABOUT HER FATHER.

FINALLY, AN AGENCY HEAD HAS TO HAVE CLEAR GOALS AND POLICY DIRECTION. DOROTHY'S STATEMENT DISCUSSES THESE GOALS, SHE KNOWS THE POTENTIAL OF THE MINE SAFETY & HEALTH ACT, WHAT SHE WANTS TO DO, AND, AS I'VE JUST DESCRIBED, SHE KNOWS HOW TO DO IT.

IF THE MEMBERS OF THIS COMMITTEE ARE FAIR, IF THEY ARE TRULY OBJECTIVE WHEN THEY VIEW THIS WOMAN'S TREMENDOUS EXPERIENCE, THEY WILL CONFIRM DOROTHY STRUNK'S NOMINATION.

THANK YOU.

1017PRT/aw

The CHAIRMAN. Congressman, we thank you very much for being with us throughout the hearing and taking the time to testify. It is good of you to do so. It demonstrates your strong view about the nominee. We are glad to have your testimony, and we thank you very much for your presence here this morning.

The committee will stand in recess.

[Whereupon, at 11:55 a.m., the committee was adjourned subject to the call of the Chair.]

○